

## ARTICLE XXVII

### WIRELESS COMMUNICATIONS

#### SECTION 2700-PURPOSE

Lamar County recognizes the need for orderly development of wireless communications technologies for the benefit of the County and its citizens. As a matter of public policy the County aims to encourage the delivery of new wireless technologies, throughout the County while providing assurance to its residents that such technologies are safe, and designed to certain tangible standards. The County will provide areas in which the zoning laws permit the development of wireless communication facilities which are consistent with the requirements of the Federal Telecommunications Act of 1996 and in the best interest of the future of Lamar County.

#### SECTION 2701 - CERTAIN USES NOT COVERED BY THIS ARTICLE

Nothing in this Article shall reduce any of the permitted uses of any zoned property within the Lamar County. Furthermore, nothing in this ordinance shall affect the right of a property owner to continue any legal non-conforming use.

#### SECTION 2702 -DEFINITIONS

For the purpose of this Article certain words, phrases, and terms used herein shall be interpreted as stated in this Section. The Zoning Administrator shall define any word, phrase or term not defined herein. The interpretation shall be based upon its common and ordinary usage. For the purpose of this Article, all definitions defined herein are in addition to all definitions in this Ordinance or any other Ordinance.

**Antenna Array.** An Antenna Array is one or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure.

**Base Station.** Shall mean the area in which, and all of, the electronic equipment which is installed, and serves as for data processing, conversions, and electrical support systems for the tower and such ground equipment; which includes cabinets, shelters, buildings, platforms, or existing structures, pedestals, and other similar structures to house equipment.

**Base Station Setback.** Shall mean the distance from the perimeter of the ground equipment area on which the Facility is located to a certain point as required to be measured. This shall include any guy wire anchors, and or additional stability supports that are required outside of the ground equipment lease area.

**Collocation Facility.** An antenna array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, not including existing building or structures. This shall not include the base station.

**Collocation/Site Sharing.** Collocation/Site Sharing shall mean use of a common WCF or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

**Conditional Use Permit (CUP).** A permit issued by the County specifically for the location, construction and use of a CF subject to an approved site plan and any special conditions determined by the Zoning Administrator to be appropriate under the provision of this Ordinance.

**Dual Use.** Use of a support structure which serves as a telecommunications facility and a non-telecommunications facility, such as light poles for stadiums, bell towers with working bells.

**Emergency Power (stand-by power).** Shall mean the capability of providing a stand-by power source to operate off of a fuel supply that will last a prescribed amount of time without outside assistance.

**Equipment Facility.** An equipment Facility is any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a building, or an existing structure, pedestals, and other similar structures.

**FAA.** Federal Aviation Administration.

**FCC.** Federal Communications Commission.

**FTA.** Federal Telecommunications Act of 1996.

**Height.** When referring to WCF, Height shall mean the distance measured from the top of foundation to highest point on the WCF, which shall include lightning rods, and antenna arrays.

**Structure Setback.** Setback shall mean the distance from the center point of the base of the structure to a certain point as required to be measured.

**Support Structure.** A Support Structure is a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures. Any device (Attachment Device) which is used to attach an Attached WCF to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures.

**Temporary/ Mobile Wireless Communication Facility (Temporary WCF).** Temporary Wireless Communication Facility shall mean a WCF to be placed in use for ninety (120) or fewer days as prescribed by this ordinance; this shall include but not be limited too Cell-on-Wheels (COWS), Mobile Truck Towers, Portable Base Station and antenna equipment without a tower (CALF).

**Wireless Communications.** Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal

communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

**Wireless Communication Facility (WCF).** A WCF is any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, connection cable, and Equipment Facility, and a Support Structure to achieve the necessary elevation.

### **SECTION 2703 - APPLICABILITY AND DESIGNATION**

- 2703.01      Pre-existing Wireless Communications Facility - Wireless communications facilities for which a permit has been issued prior to the effective date of this Article shall not be required to meet the requirements of this Article.
- 2703.02      Amateur Radio Exclusion - This Article shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. Such installations shall comply with any other applicable provisions of the Zoning Article.
- 2703.03      Relationship to Other Articles - This Article shall supersede all conflicting requirements of other Articles regarding the locating and permitting of wireless.
- 2703.04      Airport Zoning - Any wireless communications facility located or proposed to be located in airport areas governed by the FAA shall also comply with the provisions of all applicable local, state, and federal airport regulations. Lamar County reserves the ability to add a County or Local Organization review if at any time there may be a concern for surrounding air traffic.
- 2703.05      This article shall apply in general standards to all structures above the maximum allowable height not being a building which has been granted a variance. This Article shall not apply to all federally exempted structures or those exempted by this Ordinance. Further, this Article will not apply to ham operations and associated structures.

### **SECTION 2704 - ALLOWABLE USES/DEVELOPMENT CRITERIA**

- 2704.01      Preferred Locations: Lamar County prefers that wireless facilities searches conducted for a new facility account for these locations before any other location. This shall not limit searches, or the ability to site, locate in other areas.
1. County and other Government Lands
  2. School District Lands
  3. Religious and other Not-for-Profit Lands
  4. Lands with existing Tall Structures
- 2704.02      Allowable Areas:
1. Wireless communications facilities are prohibited in all residential zoned areas including. However, co-locations and roof-top facilities are permitted in all districts.

2. Freestanding facilities are permitted as a conditional in C-1, C-2, C-3, C98/589, MX, SU I-1, I-2, districts subject to conditions and exceptions noted hereafter. Stealth or dual use facilities are preferred.
3. Freestanding facilities may be permitted as conditional use in planned developments and residential districts in open space areas with the implementation of stealth design, or dual use.

2704.03

Height Standards:

The following height standards shall apply to all wireless communications facility installations:

1. Roof Top Facilities shall not add more than twenty (20) feet to the height of the existing building or structure to which it is attached.
2. Co-location facilities shall not allow for antenna arrays to extend upward beyond the existing crown of the structure or pole, not to include lightning rods, and beacon lights.
3. Wireless communications facilities with support structures shall have a maximum height of 300 feet in the I-1, I-2 districts, 250 feet in C-1, C-2, C-3, C98, MX districts, and 200 feet in any other district.

2704.04

Setback Standards: The following setback standards shall apply to all wireless communications facility installations;

1. Co-location and Roof Top Facilities:
  - a. Antenna arrays for attached wireless communication facilities are exempt from the setback provisions of the zone in which they are located. An attached wireless communication facility antenna array may extend up to thirty (30) inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.
  - b. Base station equipment located on the ground shall locate within the standard setbacks for that district. A variance may be petitioned for to reduce such.
2. Wireless Communications Facilities With Support Structures:
  - a. A minimum setback of a distance equaling the height of the tower. The setback shall be measured from the center point of the tower to the boundary line of the parcel owned by the underlying parcel owner of legal record.

- b. Ability to use undeveloped portions of an adjoining parcel within setback shall be allowed so long as the adjoining parcel owner of legal record agrees to a waiver of the setback and potential fall/ shadow zone being on the parcel. Setback waiver may be allowed for undeveloped portions of adjoining parcel only; and all structures primary and accessory to the use shall not be allowed within setback.

2704.05 Landscaping and Screening:

The following landscaping and screening requirements shall apply to all wireless communications facility installations. Landscaping is required to be placed within lease controlled area if required.

- 1. New Construction - Shall have at a minimum of at least one (1) evergreen plant hardy in growth to climate zone 8 every seven (7) feet, an example being Photonias, so as to make a hedge at mature growth; formal mulched landscape beds are not required, and all plantings must be outside security fencing.
- 2. Existing Vegetation - Existing vegetation on a wireless communication facility site may be used in lieu of required landscaping where approved by the Zoning Administrator.

2704.06 Aesthetics, Placement, Materials, and Colors: Wireless communications facilities shall be designed so as to be compatible with existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the wireless communication facility, the use of compatible or neutral colors, or stealth technology.

2704.07 Lighting and Signage: The following lighting and signage requirements shall apply to all wireless communications facility installations:

- 1. Artificial Illumination - Wireless communications facilities shall not be artificially illuminated, directly or indirectly, except for:
  - a. security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and
  - b. such illumination of the wireless communications facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences. White strobe lighting shall be permitted during daylight hours, however, red beacon shall be utilized during night time hours
- 2. Signage - Wireless communications facilities shall not display any signage, logos, decals, symbols, or any messages of a commercial or noncommercial nature, except a small message containing provider identification, facility ID name, facility ID number, and emergency telephone numbers and such other information as may be required

by local, state, or federal regulations governing wireless communications facilities.

- 2704.08 Security Fencing: Wireless communications facilities with support structures shall be enclosed by an opaque security fence not less than six (6) feet in height. Security fences may include but not be limited to wooden, chain link with vinyl or aluminum cross slats (no fabric), or any other solid building material. Barbed wire may be used at the top of fence. Security features may be incorporated into the buffer, landscaping, and screening requirements for the site. Nothing herein shall prevent security fencing that is necessary to meet requirements of state or federal agencies.
- 2704.09 Stand-By Power: All new communications facilities whether free-standing, roof-top, or collocation on existing structures must provide a means of secure stand-by power on site for a period of 72 hours without any outside assistance being provided to such facility. A certificate of Compliance shall be provided on the drawings, or as a separate letter, from the design engineer stating such criteria has been met.
- 2704.10 Continuous Transmission: All new communication facilities shall be capable of providing continuous transmission capabilities during natural disaster events unless such facility becomes damaged during such event. Such transmission capabilities shall be able to provide at a minimum voice and text service.
- 2704.11 Radio Frequency Emissions/Sound: The following radio frequency emissions standards shall apply to all wireless communications facility installations:
1. Sound Prohibited - No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted.
  2. Letter of Compliance- A letter stating that all RF emissions, frequencies, and power ratings will be maintained in a compliant manner to FCC regulations. Such letter must be signed by dually authorized employee of Provider and shall be provided in addition by all carriers at time of collocation, or roof-top locating.
- 2704.12 Structural Integrity:
1. Wireless communications facilities with support structures shall be constructed to the American National Standards Institute/ Electronics Industries Association/Telecommunications Industries Association (ANSI/EIA/TIA)222, latest revisions (or equivalent), as it may be updated and amended.
  2. All stealth communication facilities shall provide the maximum amount of accommodation of antenna arrays which design or style structure is suited for.
- 2704.13 Co-location: No permit to construct a communications tower may be issued unless the applicant demonstrates to the Zoning Administrator or, where

applicable, to the Planning Commission, need for the tower and that the applicant has exhausted all alternatives to constructing a tower. Applicants are required to prove need by:

1. A conditional use shall not be issued until the applicant proposing a new communications facility shall demonstrate that it has made a reasonable good faith attempt to locate it facility onto and existing structure. Competitive conflict and financial burden are not deemed to be adequate reasons against collocation.
2. Demonstrating via statement or other evidence that, in terms of location and construction, there are no existing towers, buildings, structures, elevated tanks, etc., able to provide the antenna platform required.
3. Providing evidence, including propagation coverage maps and technical reports of current and proposed coverages at the different identified candidate locations, demonstrating that collocation on existing sites is not technically possible in order to serve the desired need. Collocation is not possible if:
  - a. Planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;
  - b. Planned equipment will cause RF interference with other existing or planned equipment for that tower, and the interference cannot be prevented at a reasonable cost;
  - c. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned; or
  - d. Other reasons as determined by the Planning Commission make it impracticable to place the equipment planned by the applicant on existing approved towers.

## **SECTION 2705 - REVIEW PROCESS**

The review process for installation of a wireless communications facility with support structures shall follow all requirements and guidelines as set forth in Section 2705 Conditional Uses section of this Ordinance. In the course of its consideration of an application, the County, the Zoning Administrator, the Planning Commission, or the Board of Supervisors may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the County in the technical aspects of the application. In such cases, a five thousand dollar (\$5,000) deposit shall be submitted to the County for technical review and recommendations.

## SECTION 2706 - APPROVAL PROCESS

- 2706.01      Application Submission: All requests for a permit, regardless of Wireless Communication Facility type, shall submit an application in accordance with the requirements of this section.
1.      Application Contents: The application must contain:
    - a. 7 sets of 11”x17” complete scaled architectural and engineering drawings
    - b. completed application form
    - c. letter of compliance if not on drawings
    - d. propagation study maps
    - e. storm water pollution prevention plan (may be on page within drawings) if over one (1) acre being disturbed
    - f. labeling of surrounding parcel uses (drawings/ survey)
    - g. property, ground space, tower location survey (must show all uses on parcel, parcel lines, and not just lease lines)
    - h. elevation/ profile of site showing structure, maximum designed antenna arrays at proposed locations, screening, and landscaping
    - i. letter of understanding from parcel owner stating that he/she understands limitation placed on parcel by uses approval
    - j. ownership authorization in form of notarized signature granting permission to apply for consideration.
- 2706.02      Planning Commission Review: All proposed facilities which must receive Planning Commission approval will follow the criteria for public hearings as provided for in other sections of this ordinance. No facility shall be allowed to go before a public hearing without first submitting a complete application package, and variance requests if needed prior to the deadline provided by the County.
1.      Timing of Decision: The Planning Commission shall render its decision within 60 days or less of the final submission of all required application documents and technical evaluations, however this time may be increased due to deferrals by either the applicant or the Planning Commission. The Planning Commission shall forward its recommendation to the Board of Supervisors.
  2.      Appeals: The decision of the Planning Commission may also be appealed to the Board of Supervisors under the following circumstances:
    - a.      Only the applicant and those who registered an objection to the conditional use in the record of the Planning Commission shall have standing to appeal.
    - b.      Only such evidence or testimony in support of or opposition to the issuance of the conditional use which was provided to the Planning Commission may be presented to the Board of



Supervisors unless the Board, by majority vote, decides to hear new information.

- c. Notice of appeal shall be accomplished by the appellant in the same manner as a conditional use permit under the Zoning Article NO LATER THAN THE END OF THE 10<sup>TH</sup> BUSINESS DAY FOLLOWING THE DAY OF THE HEARING.

## **SECTION 2707 - TEMPORARY/ MOBILE COMMUNICATION FACILITIES**

- 2707.01 Allowable Usage, Duration, Location, and Approval: All temporary/ mobile facilities shall at no time be taller than 145 feet above the ground elevation at the citing location unless otherwise stated below. All temporary facilities will be required to file FAA and FCC documents showing the temporary relocation of the center point of the transmission.
- 2707.02 Major Events: Large venue events where added capacity is needed in order to provide a means of service during such event at the location.
1. Duration of such deployment for such event shall commence no prior to two days prior to official event start, and shall not extend longer than two days after event officially ends.
  2. Such facility shall be located on the grounds of the event to which coverage is being provided and be as far as possible from adjoining residential uses, and parcel lines.
  3. Such facility requires Planning Commission approval.
- 2707.03 Emergency Services: Natural disaster and emergency response staging and action areas where there is a need for added capacity, or due to remote nature of location, this facility shall be for the sole use of the emergency area.
1. Duration of such deployment shall commence with the commencement of such emergency area being activated, and shall not last longer than 4 days after such area has been officially declared clear, or no longer of use for emergency purposes.
  2. Such facility shall be located as close as possible to the emergency site without interfering with operations.
  3. Such facility requires a statement in writing from emergency site command requesting, or acknowledging, a need for such a facility to be provided to the area, and shall approve the location of such facility as not interfering, statement is required to be submitted to County Administrator or designee within 12 hours of deployment of such facility.
  4. Such facility shall be evaluated by County Administrator for validity.

5. In the event the duration should be longer than 4 months, an application shall be made, reviewed, and considered by the Planning Commission for a limited conditional use.

2707.04 Offset Repairs: A Roof-top facility where the building on which the facility is located is undergoing major repair work which will require the movement or relocation of equipment for the duration of the work to be performed.

1. The duration of such deployment shall not commence prior than 2 days prior to such repair work formally starting, and shall not extend longer than 2 days after repair has been completed, and shall apply to portion of roof-top where facility is located.
2. Such facility shall be located on the same parcel, and as far away as possible from any residential uses.
3. Such facility shall not be higher than existing permitted equipment.
4. Such facility requires Planning Commission approval for a limited conditional use.

#### **SECTION 2708 - REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES**

Any wireless communication facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the wireless communication facility owner shall remove the wireless communication facility within 90 days after notice from the County to remove the wireless communication facility. If the abandoned wireless communication facility is not removed within 90 days, the County may remove it and recover its costs from the wireless communication facility owner. If there are two or more users of a single wireless communication facility, this provision shall not become effective until all providers cease to use the wireless communication facility. If the owner of an abandoned wireless communication facility cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the wireless communication facility is located. The County shall be notified of any technological advances within the industry that will require any changes in the facilities.

#### **SECTION 2709 - NONCONFORMING WIRELESS COMMUNICATIONS FACILITIES**

Wireless Communication Facilities in existence on the date of the adoption of this Article which do not comply with the requirements of this Article (nonconforming wireless communications facility) are subject to the following provisions:

- A. Expansion. Nonconforming wireless communication facilities may continue in use for the purpose now used, but may not be expanded without complying with this Article except as further provided in this Section.
- B. Additions. Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers) subject to Administrative Review under this Article.
- C. Repairs or Reconstruction. Nonconforming wireless communications

facilities which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this Article. Provided, however, that if the damage to the wireless communication facility exceeds 50% of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this Article.

- D. Any wireless communications facility not in use for twelve months shall be deemed abandoned and all rights as a nonconforming use shall cease.

#### **SECTION 2710 - REVOCATION OF TOWER USE PERMITS**

Any Conditional Use Permit issued pursuant to this Article may be revoked after a hearing as provided hereinafter. If the Board of Supervisors finds that any permit holder has violated any provision of this Article, or has failed to make good faith reasonable efforts to provide or seek collocation, the Board of Supervisors may revoke the conditional use permit upon such terms and conditions, if any, that the Board may determine. Prior to initiation of revocation proceedings, the County shall notify the permit holder, in writing, of the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed 60 days. The permit holder shall provide the County with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Board of Supervisors shall convene a public hearing to consider revocation of the Conditional Use Permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the County not less than 10 days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The Board of Supervisors may impose reasonable restrictions with respect to time and procedure. The proceedings shall be provided by the requesting party at that party's expense.