

**ARTICLE 10**  
**WIRELESS COMMUNICATION FACILITIES**

10.1

**INTENT**

The provisions of this Article are designed to specifically address the requirements of HB 270 regarding placement of wireless communication facilities in Boyle County.

10.2

**DEFINITIONS**

**Cellular Antenna Tower**

A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.

**Cellular Telecommunications Service**

A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

**Co-location**

Locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower.

**Personal Communication Service**

Defined in 47 U.S.C. Section 332(c).

**Uniform Application**

An application to construct a cellular antenna tower submitted to the Planning Commission in conformity with subparagraph C of this section.

**Utility**

Defined in KRS 278.010(3).

**Antennas or Related Equipment**

Transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.

10.3

**CELLULAR ANTENNA TOWERS FOR CELLULAR TELECOMMUNICATIONS SERVICES OR PERSONAL COMMUNICATIONS SERVICES**

An antenna tower for cellular telecommunications services or personal communications services may be allowed as a conditional use in the AR-1 (Agricultural-Residential) and IBD (Industrial Business Development) zones after

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receiving approval from the Danville-Boyle County Planning and Zoning Commission's (hereinafter 'Planning Commission') review and approval of the Uniform Application in accordance with the comprehensive plan and the Zoning Ordinance. Co-location of service facilities is preferred. Co-location objectives may be satisfied by configuration of new facilities for multiple carriers or by co-location on existing facilities. Any request for review of a proposal to construct such a cellular antenna tower shall be made only in accordance with this article.

However, if the property is subject to an existing conditional use permit, the property owner shall obtain approval of the appropriate amendment or modification request. Such request shall be filed simultaneously with the cellular antenna tower for cellular telecommunications services or personal communications services request filed pursuant to this article. Review of the conditional use permit plan shall be limited to a determination of the impact of the cellular antenna tower for cellular telecommunication services or personal communications services construction on the requirements of the conditional use permit on the site.

### 10.4

#### GENERAL PROVISIONS

- A. Any request filed under this article for review of a proposal to construct an antenna tower shall include the following.
1. Submit a copy of the applicant's complete Uniform Application to the Planning Commission to construct a cellular antenna tower for cellular or personal communications services. The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:
    - a. All of the Planning Commission's jurisdiction; and
    - b. A one-half (1/2) mile area outside the boundaries of the Planning Commission's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;
  2. Include in any contract with an owner of the property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal; and
  3. In addition to the foregoing requirements, a uniform application shall include:
    - a. The full name and address of the applicant
    - b. The applicant's articles of incorporation, if applicable
    - b. A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs and foundation design recommendations;

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- c. A written report, prepared by a professional engineer of land surveyor, of findings as to the proximity of the proposed site to flood hazard areas
- d. Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions
- e. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2)
- f. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower
- g. A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system
- h. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas
- i. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky
- j. A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower
- k. A statement that every person, who according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been;
  - (1.) Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction
  - (2.) Given the telephone number and address of the local Planning Commission
  - (3.) Informed of his or her right to participate in the Planning Commission's proceedings on the application

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- l. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners
- m. A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction
- n. A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies
- o. A statement that;
  - (1.) A written notice, of durable material at least two (2) feet by four (4) feet in size stating that “(Name of applicant) proposes to construct a telecommunications tower on this site” and including the address and telephone numbers of the applicant and the Planning Commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and
  - (2.) A written notice, at least two (2) feet by four (4) feet in size, stating that “(Name of applicant) proposes to construct a telecommunications tower near this site” and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site
- p. A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed
- q. A brief description of the character of the general area in which the tower is proposed to be constructed which includes the existing land use for the specific property involved
- r. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided and that there is no reasonable available opportunity to locate its antennas and related facilities on an existing structure including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers’ facilities or an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant’s antennas and related facilities; and
- s. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within

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which an antenna tower should pursuant to radio frequency requirements, be located

10.5

## EXISTING TELECOMMUNICATIONS FACILITIES

Telecommunications facilities in existence on the date of the adoption of this ordinance, which do not comply with this ordinance (“existing telecommunications facilities”), are subject to the following provisions:

Existing telecommunications facilities may continue in use for the purpose now used, but may not be expanded or replaced without complying with this ordinance, except as further provided in this article.

Existing telecommunications facilities, which are hereafter damaged or destroyed due to cause beyond the control of the applicant, may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefore, but without otherwise complying with this ordinance.

The owner of any existing telecommunications facility may expand such telecommunications facility to accommodate co-located antennas or facilities by obtaining a building permit therefore, and without having to conform to the provisions of this ordinance.

10.6

## CO-LOCATION

The applicant shall make a reasonable attempt to co-locate its transmitting and related equipment on an existing cellular antenna tower and the applicant shall provide the Commission with a statement indicating that the applicant has:

- A. Successfully attempted to co-locate on towers designed to host multiple wireless service providers’ facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant’s facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities, or
- B. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider’s facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant’s facilities and that:
  1. Identifies the location of the towers or other structures on which the applicant attempted to co-locate; and
  2. Lists the reasons why the co-location was unsuccessful in each instance

The Planning Commission shall deny a Uniform Application to construct a cellular antenna tower based on an applicant’s unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

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In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operation restrictions on the primary user.

**10.7**

### **SEVERABILITY**

If any clause, section, or other part of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby, but shall remain in full force and effect.

**10.8**

### **CONFLICTS**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.