

158.15 WIRELESS TELECOMMUNICATIONS FACILITIES**158.15.01 APPLICATION**

Notwithstanding any other provision of this Ordinance and in addition to other applicable provisions, Wireless Telecommunications Facilities, when such are permitted by federal law and the laws of the State of Indiana, shall be regulated and governed by the use regulations and requirements of this Article. However, this Article shall not apply or be construed to apply to Amateur Radio Operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.

158.15.02 DEFINITIONS

As used in this Article only, the following terms shall be defined as set forth below. All other terms shall have the meaning set forth in section 152.02,

Antenna: any *Structure* or device used to collect or radiate electromagnetic waves, including both directional *Antennas*, such as panels, and dishes, and omni-directional *Antennas*, such as *Whip Antennas*, but no including satellite earth stations.

Antenna Array: a *Structure* attached to a *Telecommunications Tower* that supports a *Telecommunications Antenna*.

EIA-222: Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures".

Non- Whip Antenna: an *Antenna* which is not a *Whip Antenna*, such as dish *Antennas*, panel *Antennas*, etc.

Telecommunications: 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.

Telecommunications Antenna: an *Antenna* used to provide a *Telecommunications Service*.

Telecommunications Service: the offering of *Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.*

Telecommunications Tower: a *Structure* more than ten (10) feet tall, built primarily to support one or more *Telecommunications Antennas*.

Whip Antenna: an omni-directional dipole *Antenna* of cylindrical shape, which is no more than six (6) inches in diameter.

158.15.03 PROCEDURES

Wireless Telecommunication Facilities are hereby declared *Conditional uses* in all *Districts* contained in this Ordinance.

The applicant for a Wireless Telecommunication Facility Conditional use shall demonstrate that they have exhausted all efforts to locate the proposed *Telecommunications Antennas* upon existing *Buildings* or *Structures* in the geographical area of the proposed *Telecommunications Antennas*. The applicant shall submit a master plan for its Wireless Telecommunication Facilities throughout the Town of Pendleton. The master plan shall demonstrate efforts to minimize the size and number of *Telecommunications Antenna* locations throughout the geographical area, taking into consideration existing technology .

The Director of the Department of Planning may administratively approve the placement of Telecommunications Antennas upon existing Telecommunications Towers.

158.15.04 DEVELOPMENT STANDARDS

In addition to complying with the requirements for a *Conditional use* for the *Zoning District* of the property , all Wireless Telecommunications Facilities shall comply with the following additional requirements:

A. The maximum height of a *Telecommunications Tower*, including *Antenna Array*, shall not exceed one hundred and fifty (150) feet above *Grade*.

B. No new *Telecommunications Towers* shall be located within five thousand (5,000) feet from another *Telecommunications Tower*. A lesser separation distance may be approved when it can be shown that the existing towers cannot accommodate a proposed provider by virtue of elevation, location, or insufficient structural capacity. In addition, a proposal for lesser separation must show that such consideration will result in no negative aesthetic impacts as determined by the BZA.

C. All guys and guy anchors shall be located within the buildable area of the *Lot* and shall not be located within any *Front*, *Side* or *Rear Yard Setback* and, in any event, no closer than five (5) feet to any *Lot Line*.

D. Security fencing shall enclose the base of a Telecommunications Tower.

E. Equipment *buildings* must be similar in color and character to the main or adjoining *Building* or *Structure* or blend with the landscaping and other surroundings immediately adjacent to the equipment *Building* and shall be screened by a chain link or wrought iron fence with landscaping installed in compliance with the provisions of section 158.11.

F. The Plan Commission shall review all applications for construction within a zoning district requiring a design review. The recommendations of the *Plan Commission* shall become part of the record of the proceedings before the *Board of Zoning Appeals* and shall be considered by the *Board of Zoning Appeals* as conditions recommended to be imposed on the *Conditional use* by the *Board of Zoning Appeals*. If the *Conditional use* is granted, all imposed conditions shall be satisfied before an *Improvement Location Permit* is issued.

G. A *Telecommunications Tower* shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards.

H. A *Telecommunications Tower* must be:

(1) used by three (3) or more wireless communications providers; or

(2) designed and built so as to be capable of use by three or more wireless communications providers including providers such as cellular or PCS providers using *Antenna Arrays* of nine (9) to twelve (12) *Antennas* each within fifteen (15) vertical feet of each other with no more than three (3) degrees of twist and sway at the top elevation and the owner of the *Telecommunications Tower* and the property on which it is located must certify to the Town that the *Antenna* is available for use by another wireless *Telecommunications* provider on a reasonable and non-discriminatory basis and at a cost not exceeding the market value for the use of the facilities. If a portion of the *Telecommunications Tower* is to be leased to other wireless communications providers, the portions of the actual or proposed lease that demonstrate compliance with the requirements of this paragraph shall be submitted with the application for *Conditional use*.

I. All *Telecommunications Towers* shall be of a tapering monopole construction, except that another type *Telecommunications Tower* may be allowed upon showing that the alternate type of *Telecommunications Tower* would cause less visual impact on surrounding property than a similar monopole *Structure*.

J. No lettering, symbols, images, trademarks, *Signs*, or advertising shall be placed on or affixed to any part of a *Telecommunications Tower*, *Antenna Array* or *Antenna*, other than as required by FCC regulations regarding *Telecommunications Tower* registration or other applicable law.

K. The need for the requested site and the nature of any existing sites shall be documented and the manner in which the placement will promote the Town of Pendleton Telecommunications Policies shall be demonstrated.

L. *Telecommunications Towers* shall be constructed to minimize potential safety hazards. *Telecommunications Towers* shall be constructed so as to meet or exceed the most recent *EIA-222* standards, and prior to issuance of a *Building Permit*, the Building Inspector shall be provided with an engineer's certification that the *Telecommunications Tower's* design meets or exceeds those standards. Guyed *Telecommunications Towers* shall be located in such a manner that if the *Telecommunications Tower* should fall along its longest dimension, the *Telecommunications Tower* will remain within the *Lot Lines* and avoid habitable *Structures*, *Public Streets*, utility lines and other *Telecommunications Towers*.

M. *Telecommunications Towers* and equipment *Buildings* shall be located: to minimize their number, height and obtrusiveness; to minimize visual impacts on the surrounding area; and, in accordance with the following Town of Pendleton Telecommunications Policies:

(1). Ensure that the height of *Telecommunications Towers* have the least visual impact and is no greater than required to achieve service area requirements and potential collocation, when visually appropriate.

(2) Demonstrate that the selected site for a new *Telecommunications Tower* provides the least visual impact on residential areas or the public way and illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility.

(3) Site *Telecommunications Towers* to minimize being visually solitary or prominent when viewed from residential areas or the public way. The *Telecommunications Tower* should be obscured by vegetation, tree cover, topographic features, and *Buildings or other Structures* to the maximum extent feasible.

(4) Place *Telecommunications Towers* to ensure that historically significant landscapes are protected. The views of and vistas from architecturally or historically significant *Structures* should not be impaired or diminished by the placement of *Telecommunications Towers*.

(5) The *Board of Zoning Appeals* may grant a Conditional use which does not fully comply with the Telecommunications Policies contained herein for *Telecommunications*

Towers. The *Board of Zoning Appeals* must determine and specifically list in a written

finding that such a grant better accomplishes the Telecommunications Policies set out in this subsection than would a strict application of these Telecommunication Policies. Such deviations from the Town of Pendleton Telecommunications Policy shall be no greater than necessary to accomplish those policies.

N. No signals or lights or illumination shall be permitted on *Telecommunications Towers* unless required by the Federal Communications Commission, the Federal Aviation Administration, or the Town of Pendleton.

O. If any additions, changes, or modifications are to be made to a *Telecommunications Tower*, the Planning Director shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the current Building Code adopted by the Town of Pendleton.

P. *Telecommunications Towers* which have not been used for a period of one (1) year shall be removed. The last *Telecommunication* service provider to use a *Telecommunications Tower* shall notify the *Director* or its designee within thirty (30) days that use of a *Telecommunications Tower* has been discontinued.

Q. All *Telecommunications Towers* shall comply with all ordinances of the Town of Pendleton not in conflict with this section.

158.15.05 ANTENNAS MOUNTED ON EXISTING BUILDINGS OR STRUCTURES

A. Roof-mounted Telecommunications Antennas are allowed on non-residential Buildings in all zoning Districts without further zoning proceedings, provided a Non-Whip Antenna does not exceed the height of the Building by more than ten (10) feet and is screened from view from any adjacent Public Right-of-Way and provided a Whip Antenna does not exceed the height of the Building by more than fifteen (15) feet and is located no closer than fifteen (15) feet to the perimeter of the Building. Prior to installation of a roof-mounted Telecommunications Antenna, the Building Inspector shall be provided with an engineer's certification that the roof will support the proposed Telecommunications Antenna and associated roof-mounted equipment. Roof-mounted Telecommunications Antenna and associated equipment shall be screened with enclosures or facades having an appearance that blends with the Building on which they are located or by locating them so that they are not visible from an adjacent Public right-of-way.

B. Building-mounted Telecommunications Antennas of the Non-Whip Antenna type are allowed on non-residential Buildings in all zoning Districts without further zoning proceedings, provided the Non- Whip Antenna is mounted flush with the exterior of the Building so that it projects no

more than thirty (30) inches from the surface of the Building to which it is attached and the Non-Whip Antenna's appearance is such as to blend with the surrounding surface of the Building.

C. Associated equipment shall be placed either within the same Building or in a separate Building which matches the existing Building in character and Building materials or blends with the landscaping and other surroundings immediately adjacent to the separate Building housing the equipment. Associated equipment for roof-mounted Telecommunications Antennas may be located on the roof of the Building if it is screened from view from any adjacent Public Right-of-Way:

D. Telecommunications Antennas are allowed without further zoning proceeding on existing utility , lighting and Telecommunications Towers exceeding fifty (50) feet in height above Grade. Provided that the Telecommunications Antenna does not exceed the height of the Structure by more than ten (10) feet if a Non-Whip Antenna or fifteen (15) feet if a Whip Antenna. Existing Structures may be rebuilt if necessary to support the load of the new Telecommunications Antenna without further zoning proceedings if the rebuilt Structure is substantially similar in appearance to the existing Structure it replaces.

E. Telecommunications Antennas located on existing Buildings or Structures are not subject to the five thousand (5,000) foot separation requirement.

F. When an application for an Improvement Location Permit to locate a Telecommunications Antenna on an existing Building or other Structure is made, the Director shall be provided with color photo simulations showing the site of the existing Structure with a photo-realistic representation of the proposed Telecommunications Antenna and the existing Structure or any proposed reconstruction of the Structure as it would appear viewed from the closest residential property and from adjacent Public Right-of-Way. The applicant shall also submit photographs of the same views showing the current appearance of the site without the proposed Telecommunications Antenna.

G. Telecommunications Antennas shall not be constructed or used within the Town of Pendleton without all approvals and permits first having been secured.

158.15.06

FEES

Application fees for conditional use permits for telecommunications towers shall be established by ordinance of the Town Council of the Town of Pendleton. Improvement location permit fees, building permit and inspection fees are applicable to both conditional use construction and

permitted addition of carriers to existing towers.