

AN ORDINANCE OF LIBERTY COUNTY, FLORIDA, TO BE ENTITLED: AN ORDINANCE ADOPTING A NEW REVISED CHAPTER 8, SITING REGULATIONS FOR WIRELESS COMMUNICATIONS FACILITIES; ESTABLISHING A PURPOSE AND INTENT; DESCRIBING SAID WIRELESS COMMUNICATIONS FACILITIES AND ESTABLISHING SAID WIRELESS COMMUNICATIONS FACILITIES SITING REGULATIONS; PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR A COPY ON FILE.

WHEREAS, Chapter 163, Florida Statutes empowers the County Commission of Liberty, Florida to prepare and enforce Comprehensive Plans and Land Development Regulations for the development of the County; and

WHEREAS, Chapter 125, Florida Statutes empowers the County to adopt formal policy-making ordinances; and

WHEREAS, pursuant to Chapter 125, Florida Statutes, Liberty County held the required public hearings, with due public notice having been provided, to obtain public comment, and having considered all written and oral comments received; and

WHEREAS, in exercise of its authority the Board of Commission for Liberty County, Florida, has determined it necessary and desirable to revise and update and adopt a New Chapter 8 of the Liberty County Land Development Code, named the Siting Regulations for Wireless Communications Facilities, to encourage the most appropriate use of land, water and resources, consistent with the public interest; and deal effectively with future issues that may result from the use and development of land within the County.

NOW, THEREFORE, BE IT ORDAINED by the County Commission of Liberty County, Florida, as follows:

Section 1. Purpose and Intent.

The purpose of the Liberty County Wireless Telecommunications Facilities Siting regulation is to establish fair and efficient procedures and processes that Liberty County will utilize to assure that placement, construction or modification of Wireless Telecommunications Facilities are consistent with the County's Comprehensive Plan and that development orders and permits, when issued, shall protect environmental resources, ensure land use compatibility and protect the health safety and welfare of the community.

Section 2. Wireless Communication Facilities Siting Regulations.

Chapter 8, Siting Regulations for Wireless Communication Facilities is hereby adopted to include the text attached and incorporated herein;



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**Section 3. Applicability and Effective Date.**

The applicability and effect of this Ordinance and the amended version of the Liberty County Development Code, Chapter 8 Siting Regulations for Wireless Communications Facilities shall become effective upon passage and filing with the Secretary of State.

**Section 4. Severability.**

If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

**Section 6. Copy on File.**

A certified copy of the enacting ordinance, as well as certified copies of the Liberty County Development Code as amended shall be filed with the Clerk of Liberty County, Florida, and copies shall be made available to the public for a reasonable publication charge.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the County Commission of Liberty County, Florida, this 4<sup>th</sup> day of September, 2014.

ATTEST:

LIBERTY COUNTY, FLORIDA

By: Jim Johnson  
HONORABLE JIM JOHNSON, CHAIRMAN

ATTEST: Kathleen E. Brown  
KATHLEEN E. BROWN  
CLERK OF COURT

LAND DEVELOPMENT REGULATIONS

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Liberty County, Florida

CHAPTER 8

SITING REGULATIONS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

Section 8.1: Purpose

The purpose of the Liberty County Wireless Telecommunications Facilities Siting regulation is to establish fair and efficient procedures and processes that Liberty County will utilize to assure that placement, construction or modification of Wireless Telecommunications Facilities are consistent with the County's Comprehensive Plan and that development orders and permits, when issued, shall protect environmental resources, ensure land use compatibility and protect the health safety and welfare of the community.

Section 8.2: Definitions.

For purposes of this Code, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. Accessory Facility or Structure: means a facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, which are located on the same



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property and are not limited to, power, utility or transmission equipment storage sheds, buildings or cabinets.

2. Applicant: means any Property Owner and/or Wireless service provider submitting an application for a Special Land Use/Conditional Use Permit for a wireless communication facility.

3. Antenna: means any device and/or system of electrical conductors that transmit or receive signals used by wireless signal services. Such shall include, but not be limited to radio, television, cellular, paging, and/or telecommunications services. Private television receiving antennas are not subject to the requirements of this section.

4. Antenna Mount: means any supporting structure used to hold an antenna. This includes Ground Mounted and Structure Mounted facilities.

5. Co-location: means the use of a structure to support antennae for the provision of more than one wireless facility.

6. FAA: means the Federal Aviation Administration.

7. FCC: means the Federal Communications Commission.

8. Special Exception Land Use/Conditional Use Permit: means a Special Exception to the general Land Use Category with site specific conditions, this is a use that would not be appropriate generally or without restriction throughout a land use division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote, the

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public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses may be permissible in a land use classification or district as a special exception/conditional use if specific provision and/or conditions for such use are made.

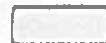
9. **Wireless Communication Facilities:** means a structure, facility or location designed, or intended to be used to support antennas or other transmitting or receiving devices, including antennas, mounts, and associated equipment and any equipment shelters.

10. **Wireless Communication Service Provider:** A company authorized by the FCC to operate a wireless communication service system, or broadcast in the commercial radio or television bands.

**Section 8.3: Wireless Communication Facilities Application, Review and Permitting.**

1. All Wireless Communication Facilities shall be reviewed and approved as a Special Exception to the general Land Use and a site specific Conditional Use development. In addition, all facilities shall also be subject to all construction and building permitting processes and permits. An Applicant shall submit to the County an original Application along with two (2) hard copies and one (1) electronic copy.

2. Wireless Communication Facilities may be allowed within all Land Use Categories depicted on the Liberty County Future Land Use Map, except Conservation Land Use/Environmental Sensitive areas (wetlands and floodplains). Tower site properties that include wetlands



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and/or floodplains must comply with the setback requirements in this Code and in the Liberty County Comprehensive Plan.

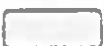
3. All Applicants for a Special Exception Land Use/Conditional Use Permit for any Wireless Communication Facility or any modification of such facility shall comply with the requirements set forth in this Code. Applicants shall include any and all land owners and any and all Wireless service providers which own and rent or lease property upon which the Facility is located. The Liberty County Commission is the officially designated agency or body of the County to whom applications must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, or revoking permits for Wireless Communications Facilities. The County Commission may at its discretion delegate or designate other official agencies of the County to accept, review, analyze, evaluate and make recommendations to the County Commission with respect to granting or not granting, or revoking permits for Wireless Communications Facilities.

4. All applications for a Special Exception Land Use/Conditional Use Permit for any Wireless Communication Facility or any modification of such facility shall include the following:

- 1) A signed statement by the property owner(s) and the Wireless service providers, which attest to the truth and completeness of the information included, that the Facilities shall be maintained in a safe manner, and in compliance with all conditions of the permit, consistent with all local, state and federal codes, ordinances and regulations.

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- 2) Certification that the Wireless service provider(s) and Professional Engineer(s) are authorized to do business in the State and in the County.
- 3) The name, address and contact information for the land owner, service provider and the owner/operator of the facility.
- 4) A Site Plan Map drawn to scale showing all development, property lines, adjacent property, all existing development and types and location of existing structures, including those on adjacent properties, all natural features including wetlands, floodplains, water bodies, roadways and access facilities, with the exact Tower site showing measured distances to all property lines and existing structures.
- 5) The location, size and height of all proposed structures and antennae, including lighting and landscaping and fencing.
- 6) The type, design, frequency, modulation and class of service and co-location capacity, make, model and manufacturer of the Tower(s) and Antenna(s).
- 7) Certification that NIER levels are within FCC thresholds, Certification that the proposed Antenna(s) will not cause interference with other existing facilities, and a copy of the FCC license. Certification that the foundation and structures meet all construction standards, including wind loads.



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8) All Applications shall demonstrate that the Facility will be sited so as to be the least visually intrusive reasonable possible. Applications for facilities in developed areas may be required to include a Visual Impact Assessment and hold a "balloon test".

9) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process.

10) Documentation that demonstrates the need for the Wireless Communications Facility. In the case of a new tower, the Applicant shall include a report demonstrating its meaningful efforts to secure shared use of existing Tower(s) and detail the future possibility of shared use of the proposed facilities.

**Section 8.4: General Standards for all Wireless Communication Facilities.**

1. All Wireless Communication Facilities shall maintain a fall zone of at least 110% of the height of the tower. The tower foundation site, which includes the tower and all accessory facilities that the Service Provider owns, leases or rents, should be large enough to accommodate all construction and the 110% fall zone.

a. If the tower foundation site is not large enough to accommodate the fall zone, then the applicant property owner that provided the site, shall ensure that the fall zone is contained within the property owners land. The application shall include a signed statement from the property owner accepting the location of the tower and responsibility for the fall zone.

b. If the tower foundation site and the applicant property owner's property



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is not large enough to accommodate the fall zone, then all adjacent property owners which include land within the fall zone, must provide a signed statement accepting the location of the tower and responsibility for the fall zone.

c. If the fall zone includes any residential structures other than the application property owner's residential structure, the application shall be denied.

**Section 8.5: Retention of Expert Assistance and Reimbursement by Applicant.**

1) The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluation the Application(s).

2) An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$3,000.00 and shall be placed in an escrow account for such funds. These funds shall use used to reimburse the costs to the County of the consultant and expert consultation. If at any time during the review and approval process this escrow account has a zero balance, the Applicant shall be notified and be required to replenish the account before any further action or consideration is taken on the Application. Any funds remaining in the escrow account after the permitting process is complete and all consultant fees have been paid, shall be promptly refunded to the Applicant.



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**Section 8.6: Application Fee.**

1) At the time that a property owner submits an Application for a Communications Facility for a new Tower site, such person shall pay a non-refundable application fee of \$3,500.00 to the County. If the Application is for co-location on an existing Facility, other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$2,000.00.

**Section 8.7: Public Hearing and Notification Requirements.**

1) Prior to the approval of any Application for a Special Exception Land Use/Conditional Use Permit for Wireless Communications Facilities, a public hearing shall be held by the County, notice of which shall be published in the official newspaper of the County no less than ten(10) days prior to the scheduled date of the public hearing.

2) Prior to the date of publication of the notice of the public hearing in the newspaper, the County shall notify by certified mail, all property owners within 1500 feet of the proposed Application property site. This notice shall include a map and a description of the Communications Facilities, their location(s) and the time and date of the public hearing.

**Section 8.8: Performance Security.**

The Applicant and the owner of record of any proposed Wireless Communications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and

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the form and manner of execution, in the amount of at least \$75,000.00 and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Special Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Special Use Permit.

**Section 8.9: Annual NIER Certification.**

The holder of the Special Use Permit shall, annually, certify to the County that NIER levels at the site are within the threshold levels adopted by the FCC.

**Section 8.10: Abandonment and Removal.**

- 1) A Wireless Communications Facility is considered abandoned when it is not used for transmission(s) for one hundred eighty (180) consecutive days, at which point the County may require removal of the facility and restoration of the site.
- 2) If a Wireless Communications Facility is determined by the County to be in a state of disrepair such that it creates a health or safety hazard, then the County may require removal of the facility and restoration of the site.

