

Chapter 478

TOWERS AND ANTENNAS

[HISTORY: Adopted by the Town Board of the Town of Buchanan 11-4-1997 as Ch. 17 of the 1997 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 525.

§ 478-1. Statement of intent.

The purpose of this chapter is to establish general guidelines for the siting of towers and antennas. The intent of this chapter is to:

- A. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Town;
- B. Encourage co-location of new and existing tower sites;
- C. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- D. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- E. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.

§ 478-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERNATIVE TOWER STRUCTURE — Man-made structures such as clock towers, water towers, buildings, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA — Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including but not limited to directional antennas, such as panel(s), microwave and satellite dishes, and omnidirectional antennas, such as whip antennas.

CO-LOCATION — The location of multiple antennas of more than one commercial wireless communications service provider or governmental entity on a single tower or alternative tower structure.

FAA — The Federal Aviation Administration.

FCC — The Federal Communications Commission.

GOVERNING AUTHORITY — The governing authority of the Town (Town Board, Plan Commission, Zoning Administrator).

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 said highest point is an antenna.

PERSONAL COMMUNICATIONS SERVICES (PCS) — A provider of personal wireless service facilities, as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. § 322, and as the same may be amended from time to time.

PERSONAL WIRELESS FACILITIES — Transmitters, antenna structures and other types of installations used to provide personal wireless services.

PREEXISTING TOWERS AND ANTENNAS — The meaning set forth in § 478-3D of this chapter.

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 personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

TOWER SITE — The area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.

§ 478-3. Applicability.

No permit is required for the following uses:

- A. Installing an antenna or tower on any existing structure (such as a tower, building, sign, light pole, water tower, or other freestanding nonresidential structure), and provided additional antenna or tower adds no more than 20 feet to the height of said existing structure.
- B. Public property. Antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this chapter, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
- C. Amateur radio and receive-only antennas. This chapter shall not govern any tower or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- D. Preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter, other than the requirements of § 478-4C. Any

such towers or antennas shall be referred to in this chapter as "preexisting towers" or "preexisting antennas."

§ 478-4. General provisions.

- A. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complied with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Aesthetics; lighting.
 - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a light gray so as to reduce visual obtrusiveness and blend in to the natural setting and built environment.
 - (2) At a tower 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 and built environment.
 - (3) 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.
 - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority, If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- C. Federal requirements. All towers shall 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.

§ 478-5. Permitted uses.

- A. Permit. An administratively approved permit is required from the Town for the following permitted uses:
 - (1) Antennas. Locating an antenna that adds more than 20 feet to the height of an alternative tower structure, including placement of additional buildings or other supporting equipment used in connection with said antenna, shall be a permitted use in all zoning districts.

- (2) Towers. Locating a tower, including placement of additional buildings or other supporting equipment used in connection with said tower, shall be a permitted use in the AED, AGD, CL, CR, CP and IND Zoning Districts. Construction of new towers is prohibited in residential zoning districts. [Amended 8-17-2010 by Ord. No. 2010-03]
- (3) Buildings. Buildings used for the exclusive use of housing antenna and tower equipment shall be no larger than 150 square feet per antenna.

B. Prohibited areas. Locating a tower in a residentially zoned area is prohibited.

§ 478-6. Special exception uses. [Amended 8-17-2010 by Ord. No. 2010-03]

Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in zoning districts other than the permitted use zones, shall require a special exception use permit.

§ 478-7. Permitting requirements. [Amended 8-17-2010 by Ord. No. 2010-03]

Applications for permitted or special exception use permits shall adhere to the following:

- A. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.
- B. Information required. Each applicant requesting a permit under this chapter shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and scaled by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this chapter.
- C. Factors considered in granting permits. The governing authority shall consider the following factors in determining whether to issue a permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the intent of this chapter is 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 accommodating other uses and reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers and other structures as discussed in Subsection D of this section.

D. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority 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. Costs exceeding 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.

E. Accommodation of other users (co-location):

- (1) Any proposed telecommunications tower and tower site shall be designed, structurally, electrically and in all respects, to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
- (2) The holder of a permit for a tower shall allow co-location for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of

a tower permit has made access to such tower and tower site economically unfeasible, then the permit shall become null and void.

- F. Setbacks and separations. The following setbacks and separation requirements shall apply to all towers and antennas for which a special permit is required; provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the intent of this chapter would be better served hereby.
 - (1) Towers shall be set back a distance equal to the height of the tower from any residential structure.
 - (2) Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.
 - (3) Towers over 90 feet in height shall not be located within 1/4 of a mile from any existing tower that is over 90 feet in height.
- G. Security fencing. Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.
- H. Landscaping. The following requirements shall govern the landscaping surrounding towers; however, the governing authority may waive such requirements if the intent of this chapter would be better served thereby. Tower sites located in the CL, CR, CP and IND Zoning Districts shall meet the requirements detailed in those sections.
 - (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the security fencing.
 - (2) In locations where 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 as towers sited on large woodlots, natural growth around the property perimeter may be sufficient buffer.

§ 478-8. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned. In such circumstances, the following shall apply:

- A. The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove said antenna and/or tower, including all supporting equipment and building(s), within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If removal to the satisfaction of the governing authority does not occur within said 90 days, the governing authority may remove and salvage said antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two or more users of a

single tower, then this provision shall not become effective until all users cease using the tower.

- B. The applicant for a permit under this chapter shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of Subsection A. Said agreement shall also identify that said agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna and all supporting equipment and building(s).

§ 478-9. Permit application fees. [Amended 8-17-2010 by Ord. No. 2010-03]

Permit application fees as listed in the Town of Buchanan Fees and Licenses Schedule¹ must be paid and a bond of \$50,000 must be posted for removal of abandoned antennas and towers and proof of payment must be shown when the annual renewal fee as listed in the Town of Buchanan Fees and Licenses Schedule is paid.

¹. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.