

CHAPTER 159: TELECOMMUNICATIONS TOWERS

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§ 159.01 DEFINITIONS.

For the purposes of this chapter the following definition shall apply unless the context clearly indicates a different meaning:

"TELECOMMUNICATIONS TOWERS." Any type of tower used for the transmission of radio signals through cell sites and mobile switching stations.

(Ord. 30:2005, passed 9-23-05)

§ 159.02 ZONING STANDARDS.

Telecommunications towers shall be permitted in all zoning districts subject to the following standards:

(A) Any legally permitted and constructed telecommunications tower, as of the effective date of this Ordinance shall be exempt from these regulations, except when discontinued for a period of twelve (12) months. In such cases, the applicant or utility shall be required to follow the procedures listed herein.

(B) All applicants for telecommunications tower approval shall file a development plan with the Morehead-Lakeview Heights Planning Commission, except where co-location is proposed as hereinafter provided. The Planning Commission will hold a public hearing for the purpose of soliciting the public's opinion. Thereafter, the Planning Commission shall consider the application and a regular or special called meeting.

(Ord. 30:2005, passed 9-23-05)

§ 159.03 APPLICATION REQUIREMENTS.

All applications for telecommunications towers and related equipment shall be in accordance with KRS 100, KRS 278, and KAR 807 and shall contain the following information:

(A) The full name and address of the applicant;

(B) The applicant's articles of incorporation, if applicable;

(C) A geotechnical investigation report, signed and sealed by a professional engineer registered in the state, which is to include boring logs and foundation design recommendations;

(D) A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;

(E) Clear directions from the City Hall, 105 East Main Street, to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person responsible for drafting the directions;

(F) 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;

(G) The identity and qualification of each person directly responsible for the design and construction of the proposed tower;

(H) A site development plan or survey, signed and sealed by a professional engineer registered in the Commonwealth of 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 where 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;

(I) A vertical profile sketch of the tower, signed and sealed by, a professional engineer registered in the state, indicating the height of the tower and the placement of all antennas;

(J) The tower and foundation design plans and a description of the standards used to design the tower, signed, and sealed by a professional engineer registered in the state;

(K) A map identifying every structure and every owner of real estate within five hundred (500) feet of the proposed tower, said map shall be drawn to a scale of no less than one (1) inch equaling two hundred (200) feet;

(L) A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing use for the specific property involved;

(M) A statement indicating the applicant has considered the likely effects of the installation on nearby land uses and values and concluding that a more suitable location is not reasonably available from which to adequately provide service to the area, and that there is no reasonably available existing structures on which to locate its antennas and related facilities. Said statement shall include documentation demonstrating attempts to locate antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and an indication that the applicant attempted to locate its antenna and related facilities on a tower designed to host multiple wireless service providers' facilities on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and

(N) A map of the area in which the tower is proposed to be located drawn to scale and clearly depicting the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

(Ord. 30:2005, passed 9-23-05)

#### § 159.04 APPLICATION FEES.

Along with the application, applicant shall submit a fee in the amount of one thousand two hundred dollars (\$1,200) payable to the city. Said fee shall cover the cost involved in reviewing the plans, required public notices and required advertising.

(Ord. 30:2005, passed 9-23-05)

#### § 159.05 PROCESSING OF APPLICATION.

Upon receipt, the application shall be processed as follows:

(A) At least one (1) public hearing on the proposal shall be held, whereby interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once in The Morehead News provided that one (1) publication occurs not less than seven (7) calendar days or more than twenty-one (21) calendar days before the occurrence of such hearing.

(B) Notice of the public hearing and proposed location shall be posted on the site at least fourteen (14) days in advance of the hearing. The notice shall consist of 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 shall also include the addresses and telephone numbers of the applicant and the Morehead-Lakeview Heights Planning Commission. The notice shall be posted and shall remain in a visible location on the proposed site until final disposition of the application. Notice of the proposal shall also be posted on the public road nearest the site. This notice shall consist of 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 near this site" and shall include the addresses and telephone numbers of the applicant and the Morehead-Lakeview Heights Planning Commission.

(C) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by certified mail, return receipt requested, to the owner of every parcel of 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. The notice shall include a map of the location of the proposed construction, the telephone number and address of the Morehead - Lakeview Heights Planning Commission and shall inform the addressee of his or her right to participate in the Planning Commission's proceedings on the application. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative

owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.

(D) Upon holding the public hearing, the Planning Commission shall, within sixty (60) days commencing from the date that the application is received by the Planning Commission, or within a date specified in a written agreement between the Planning Commission and the applicant, make its final decision to approve or disapprove the uniform application. If the Planning Commission fails to issue a final decision within sixty (60) days, and if there is no written agreement between the Planning Commission and the utility as to a specific date for the Planning Commission to issue a decision, it shall be presumed that the Planning Commission has approved the application.

(Ord. 30:2005, passed 9-23-05)

§ 159.06 SETBACK REQUIREMENTS.

(A) In residential districts, the following setback requirements shall apply to telecommunications towers and related structures:

(1) The minimum front, side and rear-yard set back requirements in the applicable district or twenty-five (25) feet, whichever is greater.

(2) For each two (2) feet of height that the tower exceeds the maximum allowable building height within the district, one (1) foot shall be added to the minimum setback.

(3) The total height shall not exceed one-hundred-fifty (150) feet.

(4) The tower shall be a monopole structure.

(B) In agricultural districts, the minimum front, side and rear-yard setback requirements shall be increased by one foot for each two (2) feet in height that the tower exceeds the maximum allowable building height.

(C) In all residential and agricultural districts, and wherever possible, all telecommunications towers shall be designed and constructed so as to minimize any potential negative aesthetic, environmental or visual impacts. This may include the use of camouflage and/or additional screening techniques.

(D) In commercial, industrial and professional office districts, the following requirements shall apply:

(1) The minimum front, side and rear-yard setback requirements shall be increased by one (1) foot for each two (2) feet in height that the tower exceeds fifty (50) feet.

(2) Where adjacent to residential or agricultural district, the setback requirements for the adjacent district shall apply with respect to the property line adjacent to the residential or agricultural district.

(3) In those districts where no setbacks are required, the minimum front, side and rear-yard setback requirements shall be twenty-five (25) feet plus one (1) foot for each two (2) feet of height that the tower exceeds fifty (50) feet.

(E) The following method shall be used to measure the height of the telecommunications tower. Beginning at the base of the tower, at ground level and including any support structures, to the top of the main tower structure, excluding the antenna(e) assembly.

(F) Co-location of antenna(e) on existing structures (i.e. telecommunications towers, buildings and water towers) is encouraged. Where co-location is proposed, the applicant must file with the application a written consent executed by the owner of the existing structure; and in such case, no development plan shall be required. (Ord. 30:2005, passed 9-23-05)

#### § 159.07 LANDSCAPE REQUIREMENTS.

The following landscaping requirements shall apply:

(A) All telecommunications towers shall have one or more rows of evergreen trees or shrubs capable of forming a continuous hedge six (6) feet in height. The hedge shall screen the base of the tower and related structures from public view. A break in the hedge, not to exceed fifteen (15) feet in width, shall be allowed for access of maintenance personnel and vehicles.

(B) New or existing vegetation, earth berms, existing topographic features, wall opaque fences and features other than those listed may be used to meet these requirements upon finding by the Planning Commission that the same degree of screening required above is achieved by the proposed alternative.

(C) No screening shall be required where explicitly prohibited by the Federal Communications Commission regulations. In such cases, the applicant or utility shall provide the Planning Commission with a written statement of the facts explaining the prohibition of locally required screening. (Ord. 30:2005, passed 9-23-05)