

Sec. 12-103. Conditions of use.

(m) *Communications towers.*

(1) *Purpose and legislative intent.* The Federal Telecommunications Act of 1996 affirmed the Town of Kiawah Island's authority concerning the placement, construction and modification of wireless telecommunications facilities. The regulations of this section are designed to site communications towers on Kiawah Island. It is the intent of this article to allow for the harmonious co-existence of communications towers and other land uses. It is also the intent of this article to reduce the overall negative impact of communications towers. ~~by:~~

~~a. Reducing the number of towers needed through a policy of encouraging collocation; and~~

~~b. Encouraging the following, if collocation is not feasible:~~

~~1. The use of stealth tower design, as defined in subsection (m)(43) of this section;~~

~~2. The clustering of towers (tower farms);~~

~~3. The placement of towers away from roadways;~~

~~4. The provision of effective screening; and~~

~~5. The location of communications equipment on existing structures.~~

(2) *Collocation exemption.* Proposed communications equipment collocating on existing towers and structures without adding to their height shall require only a zoning permit and shall not be subject to the requirements of this section. ~~;~~

(23) Tower height provision.

~~a. New Communications towers that are to be built at an existing communication tower location, may be permitted up to a maximum height of 150 feet subject to the requirements set forth in this section.~~

~~1. The height of the tower shall be measured from the base of the tower to the tower's highest point inclusive of any antennas. For stealth towers placed on buildings or other structures, the height shall be measured from natural grade to the highest point.~~

~~b. Communication towers may exceed the maximum height limits established in this article provided that a special exception is granted by the Board of Zoning Appeals pursuant to the provisions of Section 12-161. Requests for such special exceptions must be submitted and approved prior to the approval of site plan review and any issued zoning permit. Applicants must demonstrate the need for additional height is necessary to meet the service provider objectives, and that no practical alternative location or technology could achieve the same service coverage. If the height of a proposed communication tower that is being built at the location of an existing communication tower will equal or exceeds 120 feet in height its application must be accompanied by a report from an professional engineer, radio frequency engineer or other -licensed or certified professional licensed in the State of South Carolina that states:~~

~~1. that the Communications antenna(s) equipment planned for the proposed communication tower cannot be accommodated on any existing or approved communication towers~~

within a two (2) mile radius of the proposed tower location due to one (1) or more of the following reasons:

a. Existing Site. There are no existing communication towers or sites suitable to accommodate the proposed communication tower or antennaequipment.

b. Inadequate Structural Capacity. The new antennaequipment would exceed the structural capacity of an existing communication tower.

c. Interference. The new antennas or antennaequipment -on the new communication tower would cause interference impacting the usability of other existing or planned equipment at the existing communication tower location.

d. Inadequate Height. The existing communication approved towers within the search radius cannot accommodate the planned equipment at the height necessary.

e. Land Availability. Additional land area is not available (when necessary).

c. Communication towers may exceed the maximum height limits established in this article provided that a special exception is granted by the Board of Zoning Appeals pursuant to the provisions of Section 12-161. Requests for such special exceptions must be submitted and approved prior to the approval of site plan review and any issued zoning permit. Applicants must demonstrate the need for additional height is necessary to meet the service provider objectives, and that no practical alternative location or technology could achieve the same service coverage.

(4) *Stealth tower provision.*

a. For the purposes of this section, the term "stealth tower" means a communications tower not exceeding 1520 feet in height designed to unobtrusively blend into its existing surroundings so as not to have the appearance of a communications tower and is designed to hide, obscure, or conceal the presence of the towers and antennas. Examples of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.

b. All proposed stealth tower designs must be approved by the Planning Director.

c. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.

(5) Preapplication meeting. Prior to submitting a formal application for a zoning permit for a communications tower the applicant is required to attend one or more preapplication meetings. The purpose of the preapplication meeting is to address key issues which will help to expedite the review and permitting process. The Planning Director may conduct a site visit at the preapplication meeting.

(6) Zoning permit submittal requirements. Prior to zoning permit approval, all applications for ~~r~~ ~~e~~ communications towers shall complete the site plan review process as provided in section 12-162. In addition to any site plan review requirements, the application must contain the following items:

a. A site plan, drawn to engineer's scale, showing the location of the tower guy anchors (if any), existing or proposed buildings and structures or improvements, including parking, driveways or access roads, fences and protected ~~Grand-Specimen~~ Trees affected by the proposed

construction. If there are no Grand Specimen Trees affected, a surveyor's statement on the site plan must be shown. Adjacent land uses shall also be noted on the site plan, with precise measurements noted between the proposed tower and any residential structures on surrounding properties.

- b. The site plan must show a vegetated buffer with a detailed plant list, either existing or installed, that provides an effective screen from public rights-of-way and adjacent property owners and across view corridors. If a buffer is to be installed, its placement on the site will vary in order to provide the most effective screening from public view as determined by the Planning Director. Required materials will be based on installation of a 25-foot buffer around the fenced area.
- c. Elevation drawings of the proposed building and structures. The height and typical design of the tower and buildings, typical materials to be used, color, and lighting shall be shown on elevation drawings. The applicant shall submit documentation justifying the total height of any communications towers, facility and/or antenna and the basis therefor. -In cases where the proposed height of a new communication tower will equal or exceeds 120 feet the applicant must submit a report as described in section 12-103 (m) (2) (b) above.
- d. Additionally, color and material samples shall be provided. The proposed tower must be located no closer to a residential structure than 200 feet, or a distance equal to 1.5 feet for each foot in height of the proposed tower plus 50 feet as measured from the center of the proposed tower, whichever is greater. ~~At a minimum, there must be a 200150-foot distance between the proposed tower and a residential structure.~~
- e. An ~~eight~~six-foot nonclimbable fence must be placed around the tower and any associated building. Guy wires may be fenced separately.
- f. The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties. The fall zone shall be determined by an engineer certified by the State of South Carolina in a letter which includes the engineer's signature and seal.
- g. For the purposes of collocation review and review of efforts at siting a tower on the same lot near an existing tower, the applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts, etc., that alternative towers, buildings, or other structures are not available or suitable for use within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria, providing a location free of interference from other communication towers, or available at the prevailing market rate (as determined by staff communication with persons doing business within the industry). Additionally, the applicant shall make every effort to build the proposed tower in such a manner as may allow other telecommunication users to collocate.
- h. Proposed towers may not be located within 1,000 feet of the center of an existing tower unless the proposed tower is to take the place of an existing tower at the same location and the existing tower is removed pursuant to Sec. 12-103 (m) (11). ~~applicant certifies that the existing tower does not meet the applicant's structural specifications and the applicant's technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate. In the event of the situation set forth in this subsection, the clustering of new towers on the same parcel near existing towers is permitted.~~
- i. The proposed tower shall only be illuminated as required by the Federal Communications Commission or Federal Aviation Administration. Nighttime strobe lighting shall not be incorporated unless required by the Federal Communications Commission or Federal Aviation

Administration. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting that shall be as unobtrusive and inoffensive as permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the communications towers are located.

j. Communications towers shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the names of the owners and operators of the antennas, as well as emergency phone numbers. The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless required by law.

k. A copy of the tower's proposed search rings illustrating signal strength for each carrier at their heights.

l. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.

m. Structural drawings for the proposed tower.

~~l. Proposed new towers shall illustrate adequate space on the proposed communications tower to accommodate at least four (4) carriers, ensuring the structural capacity to support their equipment.~~

~~m-n.~~ The applicant shall furnish a visual impact assessment which shall include:

1. A zone visibility map which shall be provided in order to determine locations where the tower may be seen.
2. Pictorial representations and rendering of before and after view from key viewpoints both inside and outside the Town including, but not limited to:
 - (i) Major highways and roads;
 - (ii) State and local parks;
 - (iii) Historic districts;
 - (iv) Preserves and historic sites normally open to the public; and
 - (v) Any other location where the site is visible to a large number of visitors, travelers or residents.

(vi) Any other location as determined by the Planning Director.

3. An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

~~(76)~~ *Retention of expert assistance and reimbursement by the applicant.*

- a. The Town, pursuant to its professional services procurement policy, may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.

- b. ~~An~~The applicant shall ~~deposit with the Town funds sufficient to reimburse the Town for all~~be reasonable-responsible for any costs ~~incurred for these services including but not limited to of~~incurred for these services including but not limited to of the consultant and expert evaluation and consultation to the Town in connection with the review of any application, ~~including the construction and structural evaluation and inspection of the tower, and~~including the construction and structural evaluation and inspection of the tower, and modification of the site, once permitted ~~and any recertification requests. The initial deposit shall be \$8,500.00. The application will not be processed until receipt of this initial deposit. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted. If, at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The applicant shall not be entitled to receive any interest earnings on unused funds.~~
- c. ~~The total amount of the funds needed as set forth in subsection (m)(6)b of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. The applicant shall submit a deposit in the amount of \$5,000 within 15 days of a completed application to be used towards necessary review, analysis and inspection of any construction or modification. The applicant shall not be entitled to receive any interest earnings or unused funds.~~
- e. Town Council may authorize the waiver of any required costs or deposit pursuant to subsection.

(87) Surrounding property owner notification.

- a. In order to better inform the public, in the case of a new communications towers, the applicant shall hold a balloon test as follows:
1. Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of three-foot diameter brightly colored balloon at the maximum height of the proposed new tower.
 2. The dates, (including a second date, in case of poor visibility on the initial date) shall be provided to the Planning Director ten days after receipt of the complete application notice.
 3. The dates shall be set at minimum 15 days prior to the Planning Director making a final decision on the zoning permit.
 4. The balloons shall be flown for ten consecutive hours between 8:00 a.m. and 6:00 p.m.
- b. Public notice requirements for balloon test shall include:
- a. Town wide public notice via the Town's electronic newsletters shall be made at least two weeks prior to the ballon test.
 - b. AdditionalWritten public notice to neighboring property owners - - The Town shall ~~contact~~provide written notice to all property owners within a radius of 500 feet as measured at the site of the center of the new communication tower. -The public notice shall advise property owners of the upcoming ballon test as well as the proposed height and other features of the proposed communication tower.

~~b. The Town may consider alternative plan to a balloon test as appropriate and approved by the Planning Director.~~

~~b.c.~~ Once the application is deemed complete by the Planning Director for a communications tower zoning permit, the Planning Department shall provide parties in interest, personal, posted and newspaper notice in accordance with the requirements of section 12-156. The public notice shall include the dates of the balloon tests as provided by the applicant and the date the Planning Director must make a final decision on the zoning permit.

~~(98)~~ *Time limit for staff review.* Upon receipt of an application deemed complete by the Planning Director for a communications tower zoning permit, the Planning Director shall have a maximum of 45 days to act on the application. The 45 days begins from the date the applicant is sent written notice of a complete application from the Planning Director. Failure to act on the application within 45 days will result in the applicant being granted a zoning permit.

~~(109)~~ *Zoning permit approval criteria.*

- a. A complete zoning permit application for a ~~stealth-communication~~ tower that meets all requirements of this article ~~may be approved, approved with conditions or denied.~~ ~~shall be approved.~~
- b. Upon review of a complete application, no zoning permit shall be issued for a communications tower, until the Planning Director determines that the proposed tower complies with the following criteria and standards:
 1. The location and height of the proposed tower will not substantially impact the character of property listed in or eligible for the National Register of Historic Places, other significant environmental, cultural or historical site officially designated scenic roads or rivers and that the tower is designed to blend into the environment and minimize visual impact.
 2. If a completely new tower is necessary, the applicant must provide written proof of attempts at collocation and siting a tower on the same lot near an existing tower were proven not feasible or practical.
 3. The applicant has pursued any available publicly owned sites and privately owned sites occupied by a compatible use, and if not utilized, that these sites are unsuitable for operation of the facility under applicable communications regulations and the applicant's technical design requirements.
 4. Staff shall review and approve the color and materials to be used for the proposed tower.
 5. If the Planning Director finds a proposed communications tower will have a substantially negative impact on a surrounding area or adjoining property, the use shall fall under the special exception (S) provisions of this article.
- c. In determining whether the use shall fall under the special exception (S) provisions the Planning Director may consider one or more of the following items:
 1. The proposed use will be detrimental to adjacent land uses including historical sites;
 2. The proposed use will have a negative aesthetic visual impact;
 3. The proposed use will have an adverse ~~ea~~ffect on the environment (not including radio frequency emissions); and
 4. The proposed use is contrary to the public health, safety or welfare.

~~(1110)~~ *Tower abandonment.* A tower that is not used for communication purposes for more than 120 days (with no new application on file for any communication user) is presumed to be out of service and

the owner of such tower must notify the staff and remove the tower within 50 days. Towers which are not maintained by the owner according to the Town building code shall be removed by the owner within 60 days. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. Removal costs shall be charged to the tower owner. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.

(Code 1993, § 12A-302; Ord. No. 2005-08, § 12A-302, 10-12-2005; Ord. No. 2006-08, § 2.1(12A-302), 11-7-2006; Ord. No. 2016-04, § 1, 9-6-2016; Ord. No. 2023-22, § 2(Exh. A), 11-28-2023)

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