

## **ARTICLE 15**

### **WIRELESS TELECOMMUNICATIONS FACILITIES**

#### **SECTION 1500 - Purpose and Intent**

The purpose and intent of this Article is to regulate the placement, construction, and modification of Wireless Telecommunications Facilities in order to minimize its negative impact on the character and environment of the County and to protect the health, safety and welfare of the public. The provisions of this ordinance will establish a reasonable and efficient process for the review and approval of Applications, and assure an integrated and comprehensive review of the environmental impacts of such facilities. The County recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to both the County and its residents. Therefore, it is not the County's intent to unreasonably interfere with the development of the competitive wireless telecommunications marketplace in Dearborn County. Specifically the purposes of these regulations are:

1. To regulate the location of Wireless and Cellular Telecommunications Towers and Facilities within the County;
2. To protect residential areas and land uses from potential adverse impacts of Wireless and Cellular Telecommunications Towers and Facilities;
3. To minimize adverse visual impacts of Wireless and Cellular Telecommunications Towers and Facilities through careful design, placement, landscaping, preservation of natural vegetation and innovative camouflaging techniques and a reduction of the need for new Towers;
4. To promote and encourage shared use and co-location of Wireless and Cellular Telecommunication Facilities as a primary option rather than encouraging the construction of additional single-use towers;
5. To avoid potential damage to adjacent properties caused by Wireless and Cellular Telecommunications Towers and facilities by ensuring such structures are soundly and carefully designed, constructed, screened, modified, maintained, and removed;
6. To the greatest extent feasible, ensure that Wireless and Cellular Telecommunications Towers and Facilities are compatible with surrounding land uses.

#### **SECTION 1502 - Definitions**

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, 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 an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **“Applicant”** means any Wireless service provider submitting an Application for a permit for Wireless Telecommunications Facilities.
3. **“Application”** means all necessary and appropriate documentation that an Applicant submits in order to receive a permit for Wireless Telecommunications Facilities.
4. **“Antenna”** means any communications equipment that transmits or receives electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the County’s siting, building and permitting authority.
5. **“Base station”** means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.
6. **“Business Day”** means a day other than a Saturday, a Sunday, or a holiday as defined by the Dearborn County Code of Ordinances.
7. **“Co-location”** means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
8. **“Commercial Impracticability”** or **“Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
9. **“Completed Application”** means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
10. **“County”** means the County of Dearborn, Indiana.
11. **“Electrical Transmission Tower”** means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.
12. **“Equipment compound”** means the area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.

13. **“FAA”** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
14. **“FCC”** means the Federal Communications Commission, or its duly designated and authorized successor agency.
15. **"Free Fall Area"** means the area within which the wireless support structure is designed to collapse, as set forth in the Applicant's engineering certification for the wireless support structure.
12. **“Height”** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.
13. **“Modification”** means the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
14. **“NIER”** means Non-Ionizing Electromagnetic Radiation
15. **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
16. **“Personal Wireless Facility”** - See definition for ‘Wireless Telecommunications Facilities’.
17. **“Personal Wireless Services”** or **“PWS”** or **“Personal Telecommunications Service”** or **“PCS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
18. **“Conditional Use Permit”** means a permit granted by the Board of Zoning Appeals permitting Wireless Telecommunications Facilities as required by this ordinance.
19. **"Small Cell Facility"** means: (1) a personal wireless service facility (as defined earlier in this Section and by the Federal Telecommunications Act of 1996); or (2) a wireless service facility that satisfies the following requirements:
  - (A) Each antenna, including exposed elements, has a volume of three (3) cubic feet or less.
  - (B) All antennas, including exposed elements, have a total volume of six (6) cubic feet or less.

(C) The primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. For purposes of this subsection, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:

- (1) Electric meters.
- (2) Concealment equipment.
- (3) Telecommunications demarcation boxes.
- (4) Ground based enclosures.
- (5) Back up power systems.
- (6) Grounding equipment.
- (7) Power transfer switches.
- (8) Cut off switches.

20. "**Small Cell Network**" means a collection of interrelated small cell facilities designed to deliver wireless service.

21. "**State**" means the State of Indiana.

20. "**Stealth**" or "**Stealth Technology**" means minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

21. "**Substantial Modification of a Wireless Support Structure**" means the mounting of a wireless facility on a wireless support structure in a manner that:

(A) increases the height of the wireless support structure by the greater of:

- (1) ten percent (10%) of the original height of the wireless support structure;
- or (2) twenty (20) feet;

(B) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:

- (1) twenty (20) feet; or
- (2) the width of the wireless support structure at the location of the appurtenance; or
- (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.

This term does not include the following:

(A) Increasing the height of a wireless support structure to avoid interfering with an existing antenna.

(B) Increasing the diameter or area of a wireless support structure to:

- (1) shelter an antenna from inclement weather; or
- (2) connect an antenna to the wireless support structure by cable.

22. "**Telecommunications**" means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

22. **“Telecommunications Structure”** means a structure used in the provision of services described in the definition of ‘Wireless Telecommunications Facilities’.
23. **“Temporary”** means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than ninety (90) days.
24. **“Utility pole”** means a structure that is: (1) owned or operated by:
- (A) a public utility;
  - (B) a communications service provider;
  - (C) a municipality;
  - (D) an electric membership corporation; or
  - (E) a rural electric cooperative; and
- (2) designed and used to:
- (A) carry lines, cables, or wires for telephony, cable television, or electricity; or
  - (B) provide lighting.

The term does not include a wireless support structure or an electrical transmission tower.

25. **“Wireless Telecommunications Facilities”** means and includes a **“Telecommunications Tower”** and **“Tower”** and **“Telecommunications Site”** and **“Personal Wireless Facility”** means a structure, facility or location designed, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the County’s siting, building and permitting authorities, excluding those used exclusively for the County’s fire, police or exclusively for private, non-commercial radio and television reception and private citizen’s bands, amateur radio and other similar non-commercial Telecommunications where the height of the facility is below the height limits set forth in this ordinance.

#### **SECTION 1504 - Telecommunications Facilities Not Requiring A Zoning Permit**

Wireless Telecommunications Facilities which are exempt from the regulations of this Chapter include the following listed below. If a proposed facility exceeds the provisions listed below the facility will no longer be deemed exempt from the provisions of these regulations and will become subject to all requirements of this Article. The location of all structures permitted below shall be regulated according to the requirements of accessory structures within this Ordinance.

1. A collocation of wireless facilities on an existing structure that is not considered a substantial modification, as defined by this Ordinance and IC 8-1-32.3;
2. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located with an antenna height not exceeding seventy-five (75) feet;
3. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed fifty (50) feet;
4. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed fifty (50) feet;
5. A ground or building receive-only radio or television satellite dish antenna, which does not exceed eight (8) feet in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridge line of the primary structure on said parcel;
6. Citizen band radio antennas operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of adoption of these regulations;
7. Mobile Services providing public information coverage of a news event of a temporary nature;
8. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless phones, garage door openers. Similar exempt devices shall be determined by the Plan Commission;

9. Government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems and similar uses, with heights not exceeding fifty (50) feet.

### **Section 1506 - General Requirements for all Wireless Telecommunication Facilities**

The design and construction of all Wireless Telecommunications Facilities shall meet the following standards:

1. All Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
2. All Wireless Telecommunications Facilities shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the applicable governmental entities or agencies having jurisdiction over the applicant.
3. All Wireless Telecommunications Facilities shall notify the County of any intended substantial modification of a Wireless Telecommunication Facility and shall apply to the Department of Planning and Zoning to:
  - a. Increase the height of the wireless support structure by the greater of ten percent (10%) of the original height of the structure or twenty feet (20’);
  - b. Add an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: twenty (20) feet; or the width of the wireless support structure at the location of the appurtenance; or increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.
  - c. Relocate or rebuild a Wireless Telecommunications Facility.
4. The owner, and his/her successors in interest, of a Tower shall negotiate in good faith for the shared use of the Tower by other Wireless service providers in the future, and shall:
  - a. Respond within 60 days to a request for information from a potential shared use Applicant;
  - b. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
  - c. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

Failure to abide by the conditions outlined above may be grounds for revocation of the permit for the Tower.

### **SECTION 1508 - Required Permit**

Any new Wireless Telecommunications Facility, or existing Wireless Telecommunications Facility that is making a substantial modification, is required to obtain the proper permit that is in accordance with the requirements of this Article. The individual zoning district articles indicate whether a Wireless Telecommunications Facility is a Principally Permitted Use or Conditional Use, which determines the required process. All Principally Permitted Uses shall follow the Site Plan Review procedure as detailed in Article 23 of this Ordinance. A Conditional Use shall follow the Conditional Use procedure as detailed in Article 3.

No new Wireless Telecommunications Facility, or substantial modification to an existing Wireless Telecommunications Facility, shall be installed or constructed until the Application is approved by the County, and a Permit has been issued. All applications to the County to collocate on an existing Wireless Telecommunications Facility must be submitted first to the Department of Planning and Zoning to verify or determine if there are substantial modifications involved, prior to the review and issuance of any Building Permit. The County may at its discretion delegate or designate other official agencies to accept, review, analyze, evaluate and make recommendations with respect to the approval, or denial, of proposed Wireless Telecommunications Facilities.

An Application for a new wireless support structure or for a substantial modification to an existing wireless support structure shall be reviewed within ten (10) business days of its receipt to determine if it is complete. If the Department of Planning & Zoning staff determines that an Application is not complete, the staff reviewer shall notify the applicant in writing of all defects in the Application. If the Department of Planning & Zoning staff does not notify an applicant in writing of all defects in the Application, the Application is considered complete, in accordance with the terms set forth in Section 20 of IC 8-1-32.3. An applicant that receives a written notice of defects to an Application from County staff may cure the defects set forth in the notice and resubmit a corrected Application to the Department of Planning & Zoning within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority in writing of the additional time the applicant requires to cure the defects. Not more than ninety (90) days after making an initial determination of Application completeness, the Department of Planning & Zoning shall:

1. Review the Application to determine if it complies with applicable laws and ordinances governing land use and zoning; and
2. Notify the applicant in writing whether the Application is approved or denied\*

*\*Notwithstanding the ninety (90) day period set forth earlier in this Section, if the applicant requested additional time in the aforementioned, prescribed manner to cure defects in an Application, the ninety (90) day period set forth in this Section will be extended for a corresponding amount of time.*

*Applications for proposed wireless support structure that require a Conditional Use or Variance must be reviewed and all actions must be completed by the Board of Zoning Appeals within 120 days of County staff's initial determination that an Application is complete.*

## **SECTION 1510 - Pre-Application Meeting**

Prior to the submittal of an Application for a new wireless support structure, it is recommended that a pre-Application meeting take place between the Applicant and the County, or agency designated by the County that will review the Application. For new wireless support structure applications that involve a Conditional Use or Variance, a pre-Application meeting will be required. The purpose of the Pre-Application meeting is to address potential issues, which will help expedite the review and permitting process. The pre-Application meeting may include a site visit, if there has not been a prior site visit for the proposed site. It shall also be determined at the pre-Application meeting, the number of copies necessary for the applicant to submit a completed Application.

## **SECTION 1512 - Application Requirements**

All Applications for a new Wireless Telecommunications Facility, or existing Wireless Telecommunications Facility that is making a substantial modification, shall comply with the requirements set forth in this Section. Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the County. The Applicant shall be required to perform the following actions:

- ◆ Sign the Application with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. Any individual signing the Application shall be an authorized individual of the Applicant. The property owner (or an authorized individual of the owner), if different than the Applicant, shall also sign the Application.
- ◆ Attest to the following statement on the application form:
  - "The proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and shall remain in compliance with all permits and conditions of permits, as well as all applicable County, State and Federal Laws, rules, and regulations."
- ◆ With any Application for a new tower, the Applicant must submit written documentation that a commitment has been made by commercial service provider to occupy space on the proposed tower. Any Application for a new tower that does not have such a commitment shall not be accepted.

### **Applications for New Wireless Support Structures**

All Applications for the construction or installation of a new Wireless Telecommunications Facility shall contain the information hereinafter set forth. Where a certification is called for, such certification shall bear the signature and seal of a ***Professional Engineer licensed in the State of Indiana***. At the discretion of the County, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction. The Application must include:

- 1) The name, business address, phone number and any other contact information of the person preparing the application;
- 2) The name, address, and phone number of the property owner, operator, and Applicant;
- 3) The postal address and tax map parcel number of the property;

- 4) The zoning district or designation in which the property is situated;
- 5) Size of the property stated both in acreage and lot line dimensions, and a drawing showing the location of all lot lines;
- 6) The location of any structure within the proposed Free Fall Area, as determined by the Applicant's engineering certification;
- 7) The location, size and height of all structures on the property which is the subject of the Application;
- 8) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- 9) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the Tower's capacity to accommodate multiple users;
- 11) The make, model and manufacturer of the Tower and Antenna(s);
- 12) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- 13) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;
- 14) A copy of all applicable Federal, State, or Local licenses for the intended use of the Wireless Telecommunications Facilities;
- 15) An engineering certification indicating that the structure is within acceptable engineering standards and safety requirements and that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site. This certification should also acknowledge that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- 16) Evidence supporting the choice of location for the proposed Wireless Telecommunications Facility, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
  - a) would not result in the same wireless service functionality, coverage, and capacity;
  - b) is technically infeasible; or
  - c) is an economic burden to the applicant.
- 17) The Applicant shall demonstrate and provide in writing that the facility is sited to be in the least visually intrusive location reasonably possible, and thereby having the least adverse visual effect on the environment, its character, the existing vegetation, and on the residences in the area. It shall also be demonstrated that all areas and related structures located at the base of the proposed Wireless Telecommunications Facilities are effectively screened from all public right-of-ways and adjoining property lines.
- 18) The applicant must note whether or not the proposed structure is intended or otherwise required to have lighting and if so, must indicate the type of lighting proposed or required.

- 19) If a Conditional Use or Variance is required for a proposed Wireless Telecommunications Facility, the Applicant must also submit evidence showing that the application complies with the criteria set forth in Article 3 (Section 315 for the former and Section 320 for the latter) of this Ordinance.

The Applicant shall submit to the County the number of completed Applications determined to be needed via the pre-Application meeting process.

#### Applications Involving Substantial Modifications to Existing Wireless Support Structures

All Applications for the substantial modification of an existing Wireless Telecommunications Facility shall contain the information hereinafter set forth. Where a certification is called for, such certification shall bear the signature and seal of a **Professional Engineer licensed in the State of Indiana**. At the discretion of the County, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction. The Application must include:

- 1) The name, business address, phone number and any other contact information of the person preparing the application;
- 2) The name, address, and phone number of the property owner, operator, and Applicant;
- 3) The postal address and tax map parcel number of the property;
- 4) The zoning district or designation in which the property is situated;
- 5) Size of the property stated both in acreage and lot line dimensions, and a drawing showing the location of all lot lines;
- 6) The location of any structure within the proposed Free Fall Area, as determined by the Applicant's engineering certification;
- 7) The location, size and height of all structures on the property which is the subject of the Application;
- 8) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- 9) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the Tower's capacity to accommodate multiple users;
- 11) The make, model and manufacturer of the Tower and Antenna(s);
- 12) A description of the existing and proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- 13) A copy of all applicable Federal, State, or Local licenses for the intended use of the Wireless Telecommunications Facilities;

- 14) An engineering certification indicating that the structure is within acceptable engineering standards and safety requirements and that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site. This certification should also acknowledge that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- 15) If a Variance is required for a proposed Wireless Telecommunications Facility, the Applicant must also submit evidence showing that the application complies with the criteria set forth in Article 3, Section 320 of this Ordinance.

The Applicant shall submit one copy of a complete application to the County at the time of submittal. If a Variance is required, additional copies will be required as set forth in Article 3.

### **SECTION 1514 - Location of Wireless Telecommunications Facilities**

Wireless Telecommunications Facilities shall be located, sited and erected in accordance with the following priorities, with one (1) being the highest priority and eight (8) being the lowest priority.

1. On existing Towers or other structures provided there are no substantial modifications to the existing tower or structure that require a Variance;
2. On property zoned Heavy Industrial (I-3)
3. On property zoned Moderate Industrial (I-2)
4. On property zoned Light Industrial (I-1)
5. On property zoned Community Business (B-2)
6. On property zoned Local Business (B-1); *requiring a Conditional Use*
7. On property zoned Agricultural (A); *requiring a Conditional Use*
8. On property zoned Residential (R); *requiring a Conditional Use*

If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The explanations shall include the reason or reasons why such a permit should be granted for the proposed site and a description of the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

Notwithstanding the above, the County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants and will not have a harmful effect on the nature and character of the community and neighborhood.

## **SECTION 1516 - Tower Design and Construction**

The design and construction of all Wireless Telecommunications Facilities shall meet the following standards:

1. The foundation and attachments shall meet all local, County, State and Federal structural requirements for loads, including wind and ice loads.
2. All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
3. Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the County.
4. At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
5. The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial Applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least five (5) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
  - a. The foreseeable number of FCC licenses available for the area;
  - b. The kind of Wireless Telecommunications Facilities site and structure proposed;
  - c. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
  - d. Available space on existing and approved Towers.

### **SECTION 1518 - Height of Telecommunications Tower(s)**

The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

### **SECTION 1520 - Appearance and Visibility of Wireless Telecommunications Facilities**

All Wireless Telecommunications Facilities and Antennas shall be designed to minimize the adverse visual impacts of its surroundings. Specifically:

1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
2. Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
3. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

### **SECTION 1522 - Security of Wireless Telecommunications Facilities**

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and Telecommunications control points shall be installed such a manner that they are readily accessible only to persons authorized to operate or service them.

### **SECTION 1524 - Signage**

Wireless Telecommunications Facilities shall contain signage, as permitted by the underlying zoning district, in order to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation.

### **SECTION 1526 - Lot Size and Setbacks**

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: An area within which the wireless support structure is designed to collapse, as set forth in the Applicant's engineering certification for the wireless support structure and approved by the Dearborn County Technical Review Committee (as certified by the County Engineer and Planning Director), or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory Structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. Structures that are not being used in conjunction with the Wireless Telecommunications Facilities, with the exception of accessory structures, shall not be located within the Free Fall Area unless otherwise approved by the Board of Zoning Appeals.

### **SECTION 1528 - Shared use of Wireless Telecommunications Facilities**

Locating on existing Towers or others structures without increasing the height, shall be preferred by the County, as opposed to the construction of a new Tower.

An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant. Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

### **SECTION 1530 - Retention of Expert Assistance and Reimbursement by Applicant**

The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the Application, including the construction and modification of the site, once permitted.

An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the County shall precede the pre-Application meeting. The County will maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County 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 County, 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 County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County 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 total amount of the funds needed for consulting purposes 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.

### **Section 1540 - Waiver of Requirements**

Any requirement of this Article may reasonably be waived by the Board of Zoning Appeals if it is determined that such action is warranted given the nature of an individual project and such action will serve to preserve the purpose and intent of these regulations. The Planning Director, or designee, may grant a waiver for Principally Permitted Uses, if the waiver does not affect the location, height or appearance of the Wireless Telecommunications Facilities. Any waiver related to the location, height or appearance must be approved by the Board of Zoning Appeals, which must follow the Variance procedure as defined in Article 3 of this Ordinance.

### **Section 1542 - Adherence to State and/or Federal Rules and Regulations**

The holder of a permit for a Wireless Telecommunications Facility shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC, unless specific relief has been granted by the proper agency. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.