

FILED

ORDINANCE 97-8

MAY 27 1 16 PM '97

AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES, APPENDIX A, ZONING ORDINANCE; REPEALING THE MORATORIUM ON COMMUNICATION TOWERS; AMENDING ARTICLE I, SECTION 3, DEFINITIONS; BY AMENDING APPENDIX A, ARTICLE II, SECTION 2, GENERAL REGULATIONS FOR STRUCTURES AND USES, BY THE ADDITION OF SECTION 2, A (4), COMMUNICATION TOWERS; BY AMENDING APPENDIX A, ARTICLE II, SECTION 2, GENERAL REGULATIONS FOR STRUCTURES AND USES, BY THE CREATION OF SECTION 2, F; BY AMENDING APPENDIX A, ARTICLE IV, SECTION 3, COMMERCIAL DISTRICTS, (A) PERMITTED USES, (4) C-4 HEAVY HIGHWAY COMMERCIAL DISTRICT; BY AMENDING APPENDIX A, ARTICLE IV, SECTION 3, COMMERCIAL DISTRICT, "D" DIMENSION AND AREA REGULATIONS; BY AMENDING APPENDIX A, ARTICLE IV, SECTION 4, INDUSTRIAL DISTRICTS, (1) PERMITTED USES, I-1 LIGHT INDUSTRIAL DISTRICT; BY AMENDING APPENDIX A, ARTICLE IV, SECTION 4, INDUSTRIAL DISTRICT, (5) DIMENSION AND AREA REGULATIONS; BY AMENDING APPENDIX A, ARTICLE IV, SECTION 7, MINING DISTRICT, B, PERMITTED ACCESSORY STRUCTURES AND USES; BY AMENDING APPENDIX A, ARTICLE IV, SECTION 11, PSF PUBLIC SERVICE FACILITY OVERLAY DISTRICT, "B" SPECIAL REGULATIONS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDE FOR AN EFFECTIVE DATE.

THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS FINDS THAT:

WHEREAS, the Telecommunications Act of 1996 increased the number of providers in the wireless communications industry;

WHEREAS, as a result of the Telecommunications Act of 1996 and the reduction of cost for consumers, there has been an increase in the rate of applications for the Public Service Facility Overlay District for the purpose of constructing communication towers;

WHEREAS, there are issues such as aesthetics, height, collocation, compatibility and safety issues that will need to be addressed when considering the placement of communication towers; and,

WHEREAS, the Hernando County Board of County Commissioners has the responsibility to provide both the residents of Hernando County and wireless communications companies with the orderly approval of communication towers;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, that the following provisions are hereby enacted.

**SECTION 1. BY REPEALING ORDINANCE 97-2, MORATORIUM ON THE APPROVAL OF THE PUBLIC SERVICE FACILITY OVERLAY DISTRICT FOR COMMUNICATION TOWERS:**

Ordinance 97-2, Moratorium prohibiting approval of public service facility overlay district for communication towers is hereby repealed.

**SECTION 2. BY AMENDING APPENDIX A, ARTICLE I, SECTION 3, DEFINITIONS THROUGH ADDITIONS, AS FOLLOWS:**

95. Antenna: A device attached to a structure which is used for the transmission and/or receiving of radio, television, microwave, cellular, personal communication services or radar or any similar communication purpose. For the purposes of this ordinance, antennas utilized for noncommercial use shall be excluded.
96. Antenna Array: One or more antennas located on the same structure and at the same height.
97. Camouflaged Antenna: An antenna or antenna array designed to appear as part of an existing structure and not readily apparent to be an antenna.
98. Camouflaged Tower: A communication tower designed to appear as an object such as a church steeple, tree, building facade or other such object.
99. Collocation: The locating of one or more antenna arrays and support structures on either an existing communication tower or an existing structure.
100. Communication Tower: A structure, used for the purpose of elevating an antenna, placed on a foundation or existing structure and constructed to a given height for radio, television, microwave, cellular, personal communication services or radar or any similar communication purpose. For the purposes of this ordinance, communication towers utilized for noncommercial use shall be excluded.
101. Fall Radius: The area in which a communication tower is designed to fall as measured from its base.
102. Guyed Tower: A communication tower anchored by guy wires.
103. Lattice Tower: A self-supporting communication tower with three or more sides of an open-framed construction.
104. Monopole Tower: A communication tower which consists of a single pole.

**SECTION 3. BY AMENDING APPENDIX A, ARTICLE II, SECTION 2, GENERAL REGULATIONS FOR STRUCTURES AND USES, BY THE ADDITION OF SECTION 2 A (4), COMMUNICATION TOWERS, AS FOLLOWS:**

- (4) Any lawfully existing nonconforming communication tower shall be subject to the following requirements:
  - (a) A nonconforming communication tower or structure may be utilized for collocation.
  - (b) A nonconforming communication tower may not be increased in height.
  - (c) If a nonconforming communication tower ceases to be utilized and is determined by the Zoning Administrator to be abandoned, then the communication tower shall be subject to the requirements of Appendix A, Article II, Section 2 F (9) of the Zoning Ordinance.

**SECTION 4. BY AMENDING APPENDIX A, ARTICLE II, SECTION 2, GENERAL REGULATIONS FOR STRUCTURES AND USES, BY THE CREATION OF SECTION 2 F, REGULATION OF COMMUNICATION TOWERS, AS FOLLOWS:**

- F. *Regulation of Communication Towers:* All communication towers shall be subject to the following regulations, except where otherwise provided for in the Zoning Ordinance.
  - 1. *Color:* Communication towers, except camouflaged towers, shall have a galvanized finish or shall be painted with a gray or blue-gray finish, unless required by the Federal Aviation Administration or the Federal Communications Commission to be painted in another color scheme.
  - 2. *Illumination:* Communication towers shall not be lighted except to assure human safety or as required by the Federal Aviation Administration or the Federal Communications Commission.
  - 3. *Fencing:* A chain link fence or wall not less than six feet in height and no greater than eight feet in height shall be installed by the owner/operator of the communication tower. The fence shall be erected around the base of the communication tower and all accessory structures. All anchor points of the guy wires of a guyed tower shall be fenced.

4. *Signage:* Except for warning signs such as “No Trespassing” and signs that state ownership and emergency telephone numbers, no signage will be permitted on the communication tower. No communication tower site shall have more than five signs and at no time shall a single sign be greater than two square feet.
5. *Structural Design:* All communication towers, and utility and light structures that support antenna arrays, shall be constructed in accordance with the most current standards of the Electronic Industries Association, all Hernando County construction and building codes, all applicable land development regulations and Federal and State laws.
6. *Collocation*
  - a. All new or replacement communication towers, greater than 100 feet in height, erected within the County shall be structurally designed to support no less than two (2) antenna arrays. For the purpose of this ordinance, the owner/operator of a new or replacement communication tower shall provide the County with a statement indicating its good faith intent to allow additional antenna arrays on the tower.
  - b. The single addition of no more than sixty (60) feet to the height of any existing or new electric utility structure that carries an electric line of 69 kv or greater shall be a permitted use in any Zoning District for the purpose of collocation. For the purposes of this ordinance, any new or replacement electric utility structure, which supports an antenna array, shall not be more than sixty (60) feet higher than any existing power support structures in the immediate transmission line area unless otherwise permitted by the district in which it is located.
  - c. The single addition of no more than forty (40) feet to the height of any existing structure shall be a permitted use in any non-Residential zoning district or any Public Service Facility Overlay District for the purpose of collocation. For the purposes of collocation, any new or replacement structure shall not be more than forty (40) feet higher than the structure replaced. Additionally, any freestanding tower placed within ten (10) feet of a structure is allowed as long that it does not exceed the height of the structure by forty (40) feet.
  - d. Any existing communication tower, within any zoning district, may allow for collocation as a permitted use.

- e. Camouflaged antennas that are mounted directly on a structure with brackets or a similar type of device shall not be subject to the single communication tower and antenna array requirement. This use shall not be allowed in single family residentially zoned districts, unless such property is used or designated for a nonresidential use.
  - f. Communication towers and antenna arrays that are collocated on existing structures and are camouflaged shall not be subject to the single communication tower and antenna array requirement.
  - g. Monopole towers 150 feet or less in height shall be a permitted use in all electrical substations.
  - h. All antenna arrays and their attachments that are utilized for collocation shall meet engineering standards and shall secure Hernando County permits.
7. *Setbacks:* Communication towers and accessory structures shall meet the following setbacks:
- a. The minimum setback of a lattice or guyed tower shall be the fall radius as stated in a signed, certified statement from a professional engineer or the setback of the zoning district in which the communication tower is located, whichever is greater. In no case shall a communication tower be located within 125% of its height to any residentially zoned property, unless such property is used or designated for a nonresidential use.
  - b. Monopole towers shall meet the setback of the zoning district. In no case, shall a monopole tower be located within 125% of its height to any residentially zoned property, unless such property is used or designated for a nonresidential use.
  - c. Utility and light structures and other similar freestanding structures, which have been utilized for collocation via the addition of no more than 60 feet in height shall meet the locational standards for power structures and shall not be located within 125% of the height of the tower to any residentially zoned property, unless such property is used or designated for a nonresidential use.
  - d. Setbacks for communication towers shall be measured from the base of the tower.

- e. Anchors for guy wires shall meet the required setbacks of the zoning district.
  - f. Accessory structures shall meet the required principal structure setbacks of the zoning district.
8. *Replacement of communication towers:* All communication towers, whether conforming or nonconforming, shall be subject to the following replacement requirements, if applicable:
- a. A communication tower may be replaced with the same type of tower construction or a monopole tower.
  - b. A communication tower may be replaced with a tower of equal or lesser height.
  - c. A replacement communication tower must be located within thirty feet of the communication tower it will be replacing.
  - d. A replacement communication tower must meet all the requirements of this ordinance for color, illumination, fencing, signage, structural design, and collocation. The replacement communication tower shall maximize conformance with setbacks required in this ordinance.
  - e. If a conflict arises between the replacement of communication towers and permitted uses allowed under the ordinance, then the permitted use standards shall take precedence.
9. *Abandonment:*
- a. In the event that the use of any communication tower has been found to be discontinued, as determined by the Zoning Administrator, for a period of 180 consecutive days, the communication tower shall be deemed to have been abandoned.
  - b. Once a communication tower has been found to be abandoned, the owner/operator will have a period of 90 days from the date that the Zoning Administrator mails the notification via certified mail, to either:
    - 1. Reactivate the use of the communication tower or transfer the tower to another owner/operator who must make use of the tower within the 90 days; or



2. Dismantle and remove the tower.

**SECTION 5. BY AMENDING APPENDIX A, ARTICLE IV, SECTION 3, COMMERCIAL DISTRICTS, (A) PERMITTED USES, (4) C-4 HEAVY HIGHWAY COMMERCIAL DISTRICT, THROUGH THE ADDITION OF (r), AS FOLLOWS:**

- (r) Monopole Towers 150 feet or less in height

**SECTION 6. BY AMENDING APPENDIX A, ARTICLE IV, SECTION 3, COMMERCIAL DISTRICT, "D" DIMENSION AND AREA REGULATIONS, THROUGH ADDITION OF (7) AND RENUMBERING SUBSEQUENT ITEMS, AS FOLLOWS:**

- (7) *Communication Tower setbacks in the C-4 district:* A monopole tower shall meet the setbacks of the C-4 district. In no case shall any type of communication tower be located within 125% of its height to any residentially zoned property, unless such property is used or designated for a nonresidential use.
- (8) *Maximum building height:* In C-1, C-2, C-4, OP and A-C Commercial Districts, the maximum building height is forty-five (45) feet, and/or three (3) stories. In C-3 Commercial Districts, the maximum building height is thirty-five (35) feet, and/or two (2) stories. The maximum building height permitted, except within the C-3 Commercial District, may be increased provided one additional foot is added to each of the required yards for each additional foot of building height constructed over the maximum building height permitted. In such cases, the minimum side yard requirement shall be thirty-five (35) feet plus one additional foot for each additional foot of building height permitted.

**SECTION 7. BY AMENDING APPENDIX A, ARTICLE IV, SECTION 4, INDUSTRIAL DISTRICTS, (1) PERMITTED USES, I-1 LIGHT INDUSTRIAL DISTRICT, THROUGH THE ADDITION OF (o), AS FOLLOWS:**

- (o) Monopole Towers 150 feet or less in height

**SECTION 8. BY AMENDING APPENDIX A, ARTICLE IV, SECTION 4, INDUSTRIAL DISTRICT, (5) DIMENSION AND AREA REGULATIONS, THROUGH THE ADDITION OF (f), AS FOLLOWS:**

- (f) *Communication Tower:* A monopole tower shall meet the setbacks of the Industrial District. In no case shall any type of communication tower be located within 125% of its height to any residentially zoned property, unless such property is used or designated for a nonresidential use.

**SECTION 9. BY AMENDING APPENDIX A, ARTICLE IV, SECTION 11, PSF PUBLIC SERVICE FACILITY OVERLAY DISTRICT, "B" SPECIAL REGULATIONS, BY THE CREATION OF SECTION 11, B, (6), AS FOLLOWS:**

B. *Special Regulations:*

- (6) The following criteria must be met prior to the approval of a Public Service Facility Overlay District for a communication tower site:
  - (a) Have a setback of no less than the fall radius as stated in a signed, certified statement from a professional engineer or the setback of the underlying zoning district, whichever is greater. In no case shall a communication tower be located within 125% of its height to any residentially zoned property, unless such property is used or designated for a nonresidential use.
  - (b) As part of the procedure when applying for a PSF, an applicant must submit to the County:
    - (1) A map showing the search ring utilized by the applicant in determining the appropriate location;
    - (2) A map showing all structures within the search ring that were available for collocation;
    - (3) A map showing all existing Public Service Facility Overlay Districts, within the search ring, which have been approved for the placement of communication towers;
    - (4) Provide evidence that the applicant has pursued collocation or use of approved sites. Evidence shall consist of copies of all correspondence between the petitioner and the owner, operator or manager of other structures or land which can be utilized for collocation or the construction of a communication tower, requesting space and general rate structure for leasing, stating radio frequency and structural requirements, and any FCC limitations that may exist.
  - (c) The petitioner must demonstrate that there are no viable alternatives to the approval and construction of the new communication tower.
  - (d) Be compatible with the surrounding land uses:
    - (1) Shall not have a negative material impact on surrounding land uses,
    - (2) Shall not have a negative material impact on infrastructure, or



- (3) Shall not have negative material environmental impacts as allowed to be reviewed by applicable laws.
- (c) Submit a balloon test, which will allow the Board of County Commissioners to evaluate the impact of the communication tower on the surrounding land uses and the compatibility of the communication tower. This test shall consist of:
- (1) A balloon colored red, orange or yellow and be no less than four feet in diameter;
  - (2) The balloon is to be flown at the height of the proposed tower or a maximum of 199 feet if the tower is greater than 199 feet;
  - (3) The balloon is to be flown for three consecutive days;
  - (4) The balloon is to be flown for a period of at least three hours per day between the hours of 7 am and 10 am;
  - (5) The balloon test can not commence until after the posting and mailing of notice to the public;
  - (6) The applicant shall provide the Planning Department with 24 hour notice prior to the commencement of the balloon test; and,
  - (7) The applicant shall provide the Planning Department a signed affidavit, prior to the Planning and Zoning Commission meeting, attesting to the applicant having conducted the balloon test.
- (f) All other requirements of this ordinance.

**SECTION 10. SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this ordinance, for any reason, is held to be unconstitutional, void or invalid, the validity of the remaining portions of said ordinance shall not be affected thereby.

**SECTION 11. INCLUSION INTO THE CODE**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of Hernando County (Land Development Regulations) as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

**SECTION 12. EFFECTIVE DATE**

This Ordinance shall be effective upon receipt of the official acknowledgment from the office of the Secretary of State of the State of Florida that this Ordinance has been filed with said office.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION  
THIS 20th DAY OF MAY, 1997.

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA



Attest:

*Barbara A. Wyche, Deputy*  
KAREN NICOLAI, Clerk

By:

*Ray Lossing*  
RAY LOSSING, Chairman

*PL*