

SPECIAL REGULATIONS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

154.455 INTENT AND POLICY.

(A) *Intent.* This subchapter creates the framework for the siting of wireless telecommunications facilities in a manner which: protects the public health, safety and general welfare of the community; provides comprehensive service to the community; protects the community from visual clutter; is compatible with existing and future land use; and, preserves significant view corridors.

(B) *Policy.* The following policy statements are set forth to provide guidance to wireless communication facility providers in the placement of wireless telecommunication facilities within St. Joseph County. It is hereby declared that the telecommunications policies for the unincorporated areas of St. Joseph County, Indiana, shall be to:

(1) Facilitate the comprehensive provision of wireless telecommunication services to the residents and businesses of St. Joseph County:

(2) Maximize the use of existing and approved telecommunication towers, buildings, and structures to accommodate new wireless telecommunication antennas in order to minimize the number of telecommunication towers needed to comprehensively serve the community;

(3) Minimize the number, height, obtrusiveness, and the visual impacts of telecommunications towers, associated equipment, and buildings;

(4) Encourage wireless telecommunication facilities to be located in areas which are least disruptive to residential, park, open space, and greenway uses and to be as unobtrusive and invisible as reasonably possible;

(5) Ensure that the height of telecommunications towers has the least visual impact and is no greater than required to achieve service area requirements and potential co-location;

(6) Site telecommunications towers to minimize locations which are visually solitary or prominent when viewed from residential areas or any public way;

(7) Site telecommunications towers at locations which are obscured by vegetation, tree cover, topographic features, buildings or other structures to the maximum extent feasible;

(8) Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of telecommunications towers; and

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(9) Avoid potential damage to adjacent properties from telecommunication towers failure through structural design standards and setback requirements.

(Ord. 51-05, § 8.09.01A, passed 5-10-2005)

154.456 WIRELESS TELECOMMUNICATIONS FACILITIES REQUIREMENTS.

(A) *Applicability.* Notwithstanding any other provision of this subchapter to the contrary, wireless telecommunications facilities, when such are permitted by and in compliance with federal law and the laws of the State of Indiana (including but not limited to non-interference with public safety telecommunications), shall be regulated and governed by the regulations and requirements of this subchapter.

(B) *Amateur radio exemption.* This Division shall not apply to nor be construed to apply to amateur radio operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.

(C) *Compliance with other laws.* A telecommunications tower shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All telecommunications towers shall comply with all ordinances of St. Joseph County not in conflict with this subchapter.

(Ord. 51-05, § 8.09.01B, passed 5-10-2005) Penalty, see § 154.999

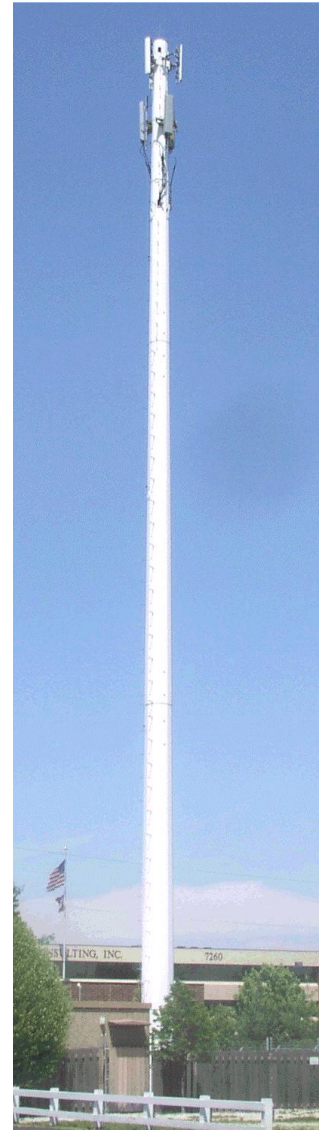
154.457 SITING HIERARCHY OF WIRELESS TELECOMMUNICATIONS FACILITIES.

Development of wireless telecommunications facilities shall be in accordance with the following siting alternatives hierarchy. The order of ranking, from highest to lowest, shall be from division (A), to division (B), to division (C), outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

(A) *Co-location.* The co-location of antenna on existing telecommunication towers and associated equipment or buildings shall comply with the following regulations:

(1) The co-location or placement of new telecommunications antennas upon existing telecommunications towers are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 154.458(B) below, are met.

(2) Associated equipment or buildings, when located within an existing compound area that is in compliance with this Ordinance, may be issued an improvement location permit provided all development standards outlined in § 154.458(C) below, are met.

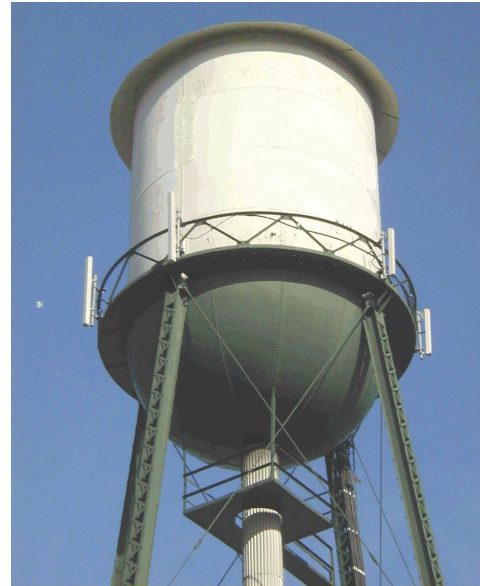


Tapering Monopole
with Co-Location
Using Slick Antenna

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(B) *Existing structure or building utilization.*

The utilization of existing structures and buildings for placement of antenna and associated equipment or buildings, including surface-mounted and roof-mounted applications of telecommunication antennas on existing buildings and structure-mounted applications of telecommunication antennas on water towers, electric-line transmission towers, or other existing structures, shall comply with the following regulations:



(1) The placement of new telecommunications antennas upon existing structures and buildings are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 154.458(B), below, are met.

(2) Associated equipment or buildings, when located within an existing building or compound area that is in compliance with this Ordinance, may be issued an improvement location permit provided all development standards outlined in § 154.458(C) below, are met.

Antenna on an Existing Structure

(C) *New telecommunications tower locations.* New telecommunications towers and associated equipment or buildings shall comply with the following regulations:

(1) *Where permitted.* Wireless telecommunications facilities requiring the construction of a telecommunications tower, building, or structure are hereby declared as:

(a) Permitted primary uses in the A: Agricultural District, L: Light Industrial District and the M: Manufacturing Industrial District, when located more than 500 feet from a residential district or residential structure, not including a residential structure occupied by the seller or landlord;

(b) Special use in the A: Agricultural District, L: Light Industrial District and the M: Manufacturing Industrial District, when located 500 feet or less from a residential district or residential structure, not including a residential structure occupied by the seller or landlord;

(c) Special uses in all other districts requiring the approval of a special use prior to the issuance of an improvement location permit; and

(d) The applicant for any special use for a new wireless telecommunications tower shall demonstrate through the materials required by division (C)(4), below, that there are no other locations, buildings or structures beyond five-hundred (500) feet of a residential district or residential structure which are available and which can provide the necessary wireless telecommunications services to the residents and businesses of St. Joseph County

(2) *Alternatives exhausted.* The applicant for a wireless telecommunications facility special use shall demonstrate that they have exhausted all efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings or structures in the geographical area of the proposed telecommunications antennas. In the event that a wireless communications provider claims that efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings or structures failed because of the demanded lease amount of the owner of an existing telecommunications tower, such dispute over fair market value shall be settled as set forth in division (C)(3), below.

(3) *Fair market value.* In the event of dispute between wireless telecommunications providers regarding the fair market value of rental for a co-location on an existing telecommunications tower which is subject to a requirement to provide co-location at a reasonable and non-discriminatory basis and at a cost not materially exceeding fair market value, the applicant, at the applicant's cost, shall select an independent appraiser to determine fair market value of such rental. In the event of a dispute over the appraisal results, the wireless telecommunication providers shall employ a new appraiser subject to the approval of the Zoning Administrator. The new appraisal shall be performed at the expense of the wireless telecommunication providers involved in the dispute. The expense of the new appraisal shall be equally shared between the wireless telecommunication providers and the results shall be conclusive.

(4) *Additional special use filing requirements.* In addition to the requirements specified in § 154.563 and any applicable Rules of Procedure, all applications for a special use for a new telecommunications tower location shall include the following:

(a) A service plan for St. Joseph County. The service plan shall demonstrate efforts to minimize the size and number of telecommunications tower locations throughout the geographical area, taking into consideration existing technology. The service plan shall include, but not be limited to the following information:

1. A narrative detailing:
 - a. The reason of need (coverage, capacity, new users, etc.) for a telecommunications tower or wireless communication facility at the requested site;
 - b. The nature of any existing wireless communication facility sites indicated on the map required by division (C)(4)(a)2, below, shall be documented (i.e., freestanding structure with available heights noted, roof-mounted applications, existing telecommunications towers with information regarding co-location opportunities or limitations, service providers utilizing each such wireless communication facility site, etc.); and,
 - c. The manner in which the proposed placement will promote the Telecommunications Policies of St. Joseph County.

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2. a. A map of St. Joseph County identifying the following:

and,

1. All existing telecommunications towers;
2. All structures or buildings within a one mile radius of the proposed site that have a height equal to or greater than the height of the proposed telecommunications tower minus 30 feet.

b. In the event that a telecommunications tower is proposed within one mile of the boundary of St. Joseph County, such map shall include the information required above for all areas within one mile of the proposed telecommunications tower.

3. a. If the applicant is a licensed provider of wireless communication services, the applicant shall supply individual coverage maps of the St. Joseph County jurisdiction which:

1. Identify all existing locations utilized by the licensed provider's network and reflects the current coverage levels to St. Joseph County; and

2. Identify the proposed coverage levels of the licensed provider's network after the installation of the proposed wireless telecommunication facility.

b. In the event that the licensed provider proposes multiple sites, a separate coverage map for each additional wireless telecommunication facility and an overall coverage map based upon all proposed wireless telecommunication facilities shall be provided.

(b) A certification, in a manner acceptable to St. Joseph County, from the owner of the telecommunications tower or the property on which the telecommunications tower is located, that the telecommunications tower is available for use by another wireless telecommunications provider on a reasonable and non-discriminatory basis and at a cost not exceeding the fair market value for the use of the facilities.

(c) A designation by the owner of the telecommunications tower or the property on which such telecommunications tower is located of an area which is set aside for the equipment of future users of the telecommunications tower and is located:

1. Within the proposed compound area; or,
2. Within a separate compound area located on the same lot and located no further from the telecommunications tower than the distance from the telecommunications tower to the proposed compound area plus 50 feet.

(d) Color photo simulations showing the site of the proposed telecommunications tower with a photo-realistic representation of the proposed telecommunications tower as it would appear viewed from the closest residential district and from adjacent public right-of-way, and photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications tower.

(Ord. 51-05, § 8.09.01C, passed 5-10-2005) Penalty, see § 154.999

143.458 DEVELOPMENT STANDARDS.

In addition to complying with the requirements for a special use for the district in which the lot is located, all wireless telecommunications facilities shall comply with the following additional development standards:

(A) *Telecommunication tower and antenna array.*

(1) *Height.* The maximum height of a telecommunications tower, including antenna array, shall be less than 200 feet above grade.

(2) *Telecommunications tower type.* All new telecommunications towers shall be of a tapering monopole construction unless a determination is made in connection with a special use request that an alternative design would better blend into the surrounding environment and is approved as a waiver of development standards as provided for and regulated in § 154.563.

(3) *Guys and guy anchors.* If a guyed telecommunication tower is approved, all guys and guy anchors shall be located within the buildable area of the lot and shall not be located within any required yard or required residential bufferyard

(4) *Security fencing.* The base of a telecommunications tower and all guy anchors shall be enclosed by security fencing. This fencing shall conform with the requirements detailed in (C)(1), below.

(5) *Structural design.* A telecommunications tower shall be designed and built so as to:

- (a) Be capable of use by at least two wireless communications providers for a telecommunications tower less than 80 feet in height;
- (b) Be capable of use by three or more wireless communications providers for a telecommunications tower of 80 feet in height or greater;
- (c) Accommodate antenna arrays consisting of nine to 12 antennas for each antenna array, provided, however, this regulation shall not apply to slick antenna applications;
- (d) Locate such antenna arrays within 15 vertical feet of each other;



Tapering Monopole with "Slick" Antenna

(e) Have no more than three degrees of twist and sway at the top elevation; and,

(f) Provide internal cable routing for all tapering monopole telecommunication towers.

(6) *Antenna arrays and types.* To minimize adverse visual impacts, the antenna type used shall be in accordance with the following alternatives hierarchy. The order of ranking, from highest to lowest, shall be divisions (A)(6)(1), (2), (3), (4) and (5) outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

(a) Flagpole antenna (with or without a flag, as appropriate to the setting).

(b) Slick antennas or stealth antennas other than flagpole antennas.

(c) Panel antennas, also known as directional or sectored antennas.

(d) Whip antennas.

(e) Dish antennas.



Panel Antenna



Stealth Flagpole
Antenna w/out flag



Stealth or "Slick"
Antenna

(7) *Signs.* No lettering, symbols, images, trademarks, signs (including banners, pennants or streamers), or advertising shall be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by Federal Communications Commission regulations regarding telecommunications tower registration or other applicable law.

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(8) *Safety.* Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent EIA-222 standards, and prior to issuance of an improvement location permit, the Zoning Administrator shall be provided with an engineer's certification that the telecommunications tower's design meets or exceeds such EIA-222 standards. Guyed telecommunications towers shall be located in such a manner that if the telecommunications tower should fall along its longest dimension, the telecommunications tower will remain within the lot lines and avoid dwelling units, habitable structures, public street rights-of-way, utility lines and other telecommunications towers.

(9) *Lights.* No signals, lights or other illumination (including holiday lights or outdoor strings of lights) shall be permitted on telecommunications towers unless required by the Federal Communications Commission, the Federal Aviation Administration, or St. Joseph County. When incorporated into the approved design of the telecommunications tower, outdoor light fixtures used to illuminate ball fields, parking areas, or similar areas, in compliance with the requirements of §§ 154.350 through 154.355, may be attached to the telecommunications tower.

(10) *Modifications.* If any additions, changes or modifications are to be made to a telecommunications tower, the Zoning Administrator shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change or modification conforms to structural wind load and all other requirements of the current building code adopted by St. Joseph County.

(B) *Telecommunications antennas mounted on existing buildings or structures.*

(1) *Roof-mount.* Roof-mounted telecommunications antennas are permitted on buildings and structures in all districts, except for single family dwellings or two family dwellings, without a special use, provided:

(a) A non-whip antenna:

1. Does not exceed the height of the building by more than ten feet; and,
2. Shall be no closer than ten feet to the perimeter of the building.

(b) A whip antenna:

1. Does not exceed the height of the building by more than 15 feet; and,
2. Shall be no closer than 15 feet to the perimeter of the building.

(c) Prior to installation of a roof-mounted telecommunications antenna or equipment, the Zoning Administrator shall be provided with an engineer's certification that the

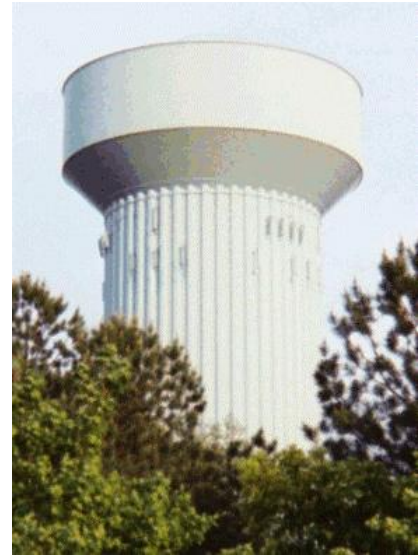
roof will support the proposed telecommunications antenna or associated roof-mounted equipment.

(2) *Surface-mount.* Surface-mounted telecommunications antennas are permitted on buildings or structures in all districts without a special use, provided:

(a) The antenna is of the non-whip antenna type;

(b) The non-whip antenna is mounted flush with the exterior of the building or structure so that it projects no more than 30 inches from the surface of the building or structure to which it is attached; and,

(c) The non-whip antenna's appearance is designed to blend with the color or texture of the surrounding surface of the building or structure.



Surface Mount Antenna

(3) *Other existing structures.* Telecommunications antennas are permitted on existing utility, lighting, telecommunications towers and other structures in all districts without a special use, provided:

(a) The existing utility, lighting, telecommunications towers and other structure exceeds 50 feet in height above grade;

(b) The telecommunications antenna does not exceed the height of the structure by more than 10 feet if a non-whip antenna or 15 feet if a whip antenna.

(c) Existing structures may be rebuilt if necessary to support the load of the new telecommunications antenna without further zoning proceedings provided:

1. If the structure to be rebuilt is not an existing telecommunications tower, the rebuilt structure shall comply with all applicable regulations of the district in which such structure is located; or,

2. If the structure to be rebuilt is an existing telecommunications tower, the new telecommunications tower shall:

a. Not exceed the height of the existing telecommunications tower; and,

b. Comply with all other regulations contained in this Section for the erection of a new telecommunications tower, except that a special use shall not be required.

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(4) *Application.* When an application for an improvement location permit to locate a telecommunications antenna on an existing building or other structure is made, the Zoning Administrator shall be provided with color photo simulations showing the site of the existing structure with a photo-realistic representation of the proposed telecommunications antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest residential district and from adjacent public right-of-way. The applicant shall also submit photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications antenna.

(C) *Associated equipment or buildings and compound area requirements.*

(1) *Fencing and landscaping of ground mounted associated equipment or buildings.*

(a) *Fencing required.* The compound area and all guy anchors shall be secured with a board-on-board or chain link fence of not less than six feet in height nor more than 10 feet in height. A security wire (barbed, razor, etc.) may be located on the telecommunications tower-side of the fence but shall not extend above the top of the fence. A chain link fence, if used, shall be black vinyl coated.

(b) *Landscaping required.* Landscaping shall be installed around the perimeter of the fenced compound area running the full length of all sides of the compound area or building, except for entry gates or doors. The type of landscaping required shall be based upon the open space of the fence. If the fence has an open space of:

1. Fifty percent or greater, a 10 foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with a four evergreen trees for every 30 feet shall be installed on the outside of the fenced area; or,

2. Less than 50% but greater than 20%, a 10 foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with a two evergreen trees for every 25 feet shall be installed on the outside of the fenced area; or,

3. Twenty percent or less, a 10 foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with one ornamental tree (minimum one and one-half inch caliper) planted for every 25 feet shall be installed on the outside of the fenced area.

(c) Interior access drives or walkways that lead to the entry into the compound area or building shall be hard-surfaced with asphalt or concrete.

(2) *Exterior materials and roof pitch of associated equipment or buildings.*

(a) Associated equipment buildings, whether ground or roof-mounted and not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), shall be similar in color, exterior material, and character to the main or adjoining building or structure. If ground mounted the roof pitch of the associated equipment building shall match the pitch of any existing building or structure.



(b) When an equipment building is located on a lot that does not contain an existing building or structure and is not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), the exterior material shall be either brick or stone. The roof pitch shall not be less than a three foot vertical rise for each 12 foot horizontal run nor greater than a 12 foot vertical rise for each 12 foot horizontal run.

(Ord. 51-05, § 8.09.01D, passed 5-10-2005) Penalty, see § 154.999

154.459 ABANDONMENT AND REMOVAL OF TELECOMMUNICATIONS TOWERS, ANTENNA ARRAYS, ASSOCIATED EQUIPMENT AND BUILDINGS.

(A) *Abandonment.* Telecommunications towers, antenna arrays, associated equipment and buildings which have not been used for a period of one year shall be deemed abandoned and shall be removed from the site.

(B) *Notice required.* The owner of the telecommunications tower and the last service provider to use a telecommunications tower shall notify the Zoning Administrator within 30 days that use of a telecommunications tower has been discontinued.

(C) *Security.*

(1) Every telecommunications tower owner and all service providers shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing the telecommunications towers, antenna arrays, associated equipment and buildings that have been determined to be abandoned, or found to be in non-compliance with this subchapter, and to provide St. Joseph County a fund from which to deduct fines and penalties for non-compliance with this subchapter or other applicable laws in the following amounts:

(a) The amount to be provided for each telecommunications tower shall be 125% of the cost of construction based upon a licensed engineer's estimate of the cost of construction of the telecommunications tower, and

(b) The amount for each antenna array on the telecommunications tower shall be 125% percent of the cost of construction based upon a licensed engineers estimate of the cost of installation of the antenna array.

(2) Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within

30 days after notice from St. Joseph County of the amount deducted and the deficiency created hereby.

(D) Refund - Within a reasonable period of time, not to exceed three months after the telecommunications tower and/or antenna array is removed, any remaining funds on deposit with St. Joseph County pursuant to this subchapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

(Ord. 51-05, § 8.09.01E, passed 5-10-2005) Penalty, see § 154.999

154.460 LIMITATIONS ON SPECIAL USES.

(A) A special use which does not fully comply with the telecommunications policies contained herein for telecommunications towers may be granted upon a determination that such a grant better accomplishes the telecommunications policies set out in this subchapter than would a strict application of these telecommunication policies. The deviations from the telecommunications policy shall be no greater than necessary to accomplish those policies.

(B) A special use which does not comply with the development standards of this subchapter may only be granted upon:

(1) Approval of a waiver of development standards as provided for in § 154.563 and regulated in § 154.562; or,

(2) Separate application for and approval of a variance of development standards filed for and obtained in accordance with the requirements of §§ 154.555 through 154.565 and any applicable Rules of Procedure.

(Ord. 51-05, § 8.09.01F, passed 5-10-2005) Penalty, see § 154.999