ARTICLE I: GENERAL PROVISIONS

SECTION 1.0 PURPOSE: These regulations balance the need for new Cellular Antenna Towers with the impacts new towers have on adjacent land uses; provide for the safest and most efficient integration of cellular antenna facilities for Cellular Telecommunications Services or Personal Communications Services within the community; provide for these facilities in coordination with the recommendations of the Kenton County Comprehensive Plan; and, to further the public health, safety, and general welfare of the Planning Jurisdiction.

SECTION 1.1 TITLE: These regulations shall be known as the Regulations for Cellular Antenna Towers and Small Cell System Towers in Kenton County, and may be referred to as “these regulations.”

SECTION 1.2 AUTHORIZATION: These regulations are adopted pursuant to authority granted to planning commissions in the Commonwealth of Kentucky by Kentucky Revised Statutes (KRS) 100.985 – 100.987.

SECTION 1.3 CITATIONS OF KENTUCKY REVISED STATUTES: Whenever a provision of these regulations cites a provision of the Kentucky Revised Statutes (KRS), and that provision is later amended or superseded, these regulations shall be deemed amended to refer to the amended provision, or to the provision that most closely corresponds to the superseded provision.

SECTION 1.4 APPLICABILITY: These regulations apply to every Utility or company that is engaged in the business of providing the required infrastructure to a Utility that proposes to construct an antenna tower for Cellular Telecommunications Services or Personal Communications Services. These regulations also apply to towers that do not meet the requirements of minor adjustments, in accordance with Section 2.6 or Section 3.6 of these regulations.

SECTION 1.5 JURISDICTION: These regulations shall be effective throughout the Planning Jurisdiction.

SECTION 1.6 RELATIONSHIP TO LOCAL ZONING: These regulations are not intended to supersede in any way the requirements of the local zoning ordinance.

SECTION 1.7 RELATIONSHIP TO MANDATORY BUILDING CODE: These regulations are not intended to supersede in any way the requirements of the mandatory statewide Kentucky Building Code.

SECTION 1.8 EFFECTIVE DATE: These regulations shall become effective at 12:00:01 AM on Friday, May 6, 2016.
SECTION 1.9 STATEMENT OF SEVERABILITY: It is the intention of the Planning Commission that the articles, sections, subsections, sentences, clauses, and phrases of these regulations are severable. If any article, section, subsection, sentence, clause, or phrase is declared unconstitutional, or otherwise invalid by a court of competent jurisdiction in a valid judgment or decree, that unconstitutionality or invalidity shall not affect the remaining articles, sections, subsections, sentences, clauses, and phrases. These would have been adopted without the incorporation into these regulations of the unconstitutional article, section, subsection, sentence, clause, or phrase.

SECTION 1.10 STATUS AS MINIMUM STANDARDS: In their interpretation and application, these regulations shall be viewed as minimum standards or requirements, adopted for promotion of the public health, safety, and general welfare. Whenever these regulations conflict with a requirement of any other lawfully-adopted rule, regulation, ordinance, order, or resolution, the most restrictive or that imposing the higher standards shall govern.

SECTION 1.11 COMPLIANCE REQUIRED: Except as hereinafter specified, no Cellular Antenna Tower or Small Cell System Tower shall hereafter be placed or constructed except in conformity with these regulations.

SECTION 1.12 USE OF GRAPHICS, ILLUSTRATIONS, AND FIGURES: Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.

SECTION 1.13 BURDEN OF PROOF: The burden of demonstrating that an Application subject to these regulations complies with applicable review and approval standards is on the Applicant. The burden is not on the Staff, the Planning Commission, or other parties to show that the standards have been met by the Applicant or person responsible for the development.

SECTION 1.14 DEFINITIONS: For the purposes of these regulations, the following definitions shall apply.

ANTENNAS OR RELATED EQUIPMENT: Any transmitting, receiving or other equipment used in conjunction with a Wireless Communications Facility. The term includes Utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Cellular Antenna Towers.

APPLICANT: An Applicant is person or entity who is authorized by the provisions of these regulations to file for approval under these regulations.

APPLICATION: An Application is the completed form or forms and all accompanying documents, exhibits, and fees required of an Applicant by Staff, the Planning Commission, or the applicable Legislative Body as part of a submission for review.
**BASE STATION:** A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communication between user equipment and a communication network. The term does not include a Cellular Antenna Tower as defined in this section or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

A. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Small Cell Systems).

B. The term includes any structure other than a tower that, at the time the required Application is filed with the Planning Commission under this subsection, supports or houses equipment described in sub-paragraph (A) of this definition that has been reviewed and approved under the applicable zoning or siting process even if the structure was not built for the sole or primary purpose of providing such support.

C. The term does not include any structure that, at the time the required Application is filed with the Planning Commission under this definition, does not support or house equipment described in this definition.

**CELLULAR ANTENNA TOWER:** A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of Cellular Telecommunications Services or Personal Communication Services.

**CELLULAR TELECOMMUNICATIONS SERVICES:** A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

**CO-LOCATION:** Locating two (2) or more transmission Antennas or Related Equipment on the same Cellular Antenna Tower.

**MONOPOLE:** A tower that consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennas and connected appurtenances.

**NON-TOWER WIRELESS COMMUNICATION FACILITIES:** Wireless communications facilities other than tower-based wireless communications that are located on buildings, Utility Poles as defined by this section, and other existing structures.
PERSONAL COMMUNICATION SERVICES: Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. sec. 332(c).

PLANNING COMMISSION: The term “Planning Commission” shall mean the Kenton County Planning Commission in the Commonwealth of Kentucky

PLANNING JURISDICTION: The Planning Jurisdiction includes those areas of Kenton County, Kentucky, which fall under the jurisdictional authority of the Kenton County Planning Commission, as provided by KRS 100.131.

RIGHT-OF-WAY: The surface of and space above and below any real property in the municipality in which the federal government, Commonwealth, municipality, or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, bridges, or any other public place, area, or property under the control of the federal government, Commonwealth, municipality, or municipal authority. Private Rights-of-Way and other government-owned lands not listed above shall not be considered a Right-of-Way. The phrase “in the Right(s)-of-Way” means in, on, over, along, above and/or under the Right(s)-of-Way.

SMALL CELL SYSTEM: A network of remote antenna nodes that distributes radio frequency signals from a central hub through a high capacity signal transport medium to a specific area. The term includes mini commercial towers, small cells, distributed antenna systems, mini cell, or similar systems.

SMALL CELL TOWER: Any structure under fifty (50) feet in height with an antenna or transmitter that is constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole. The term Small Cell Tower includes mini cell towers, distributed antenna system towers, micro cell towers, mini cell, Wi-Fi antennas, or similar systems.

STAFF: Those employees of Planning and Development Services of Kenton County assigned to support and/or administer the powers and duties proscribed to the Kenton County Planning Commission.

STEALTH TECHNOLOGY: State-of-the-art design techniques used to blend
objects into the surrounding environment and to minimize visual impact. These
design techniques may be applied to wireless communications towers, antennas,
and other facilities, which blend the proposed facility into the existing structure or
visual backdrop in such a manner as to render it less visible to the casual observer.
Such methods include, but are not limited to facilities constructed to resemble light
poles, flag poles or other streetscape amenities. The use of additional features such
as flags, decorative street lamps and banners or signs may be utilized to blend the
proposed facility into the visual backdrop.

TRANSMISSION EQUIPMENT: Equipment that facilitates transmission for any
Federal Communications Commission-licensed or authorized wireless
communication service, including, but not limited to, radio transceivers, antennas,
coaxial or fiber-optic cable, and regular and backup power supply. The term
includes equipment associated with wireless communications services including, but
not limited to, private, broadcast, and public safety services, as well as unlicensed
wireless services and fixed wirelesses services such as microwave backhaul.

UNIFORM APPLICATION: An Application to construct a Cellular Antenna Tower
submitted to a planning commission in accordance with KRS Chapter 100 and these
regulations.

UTILITY: Has the meaning as defined in KRS 278.010(3).

UTILITY, OVERHEAD: Utility infrastructure that is located primarily above ground
as determined by Staff. For purposes of these regulations, Overhead Utilities
include but are not limited to power lines and communications lines.

UTILITY POLE: A structure originally constructed for the support of electrical,
television, cable television or other video services, street lighting, or other similar
cables and located within the public right of way or Utility easements. A pole
originally installed for the primary purpose of supporting wireless
communications equipment, regardless of the timeframe between pole
installation and connection/implementation of Transmission Equipment, is
considered a Small Cell Tower, and is not a Utility Pole.

UTILITY, UNDERGROUND: Utility infrastructure that is located primarily
underground as determined by Staff. For purposes of these regulations, utilities
include but are not limited to water lines, sanitary sewer lines, storm sewer lines,
culverts, natural gas lines, power lines, and communications lines. This definition
does not include electric transformers, switch boxes, telephone pedestals and
telephone boxes, traffic boxes, and similar devices which are ground mounted.

WIRELESS COMMUNICATIONS FACILITY: The set of equipment and network
components including antennas, transmitters, receivers, Base Stations, cabling, and
Antenna or Related Equipment, used to provide wireless data and
telecommunication services.