REGULATIONS FOR CELLULAR ANTENNA TOWERS AND SMALL CELL TOWERS IN KENTON COUNTY, KENTUCKY

Prepared by:
Planning and Development Services of Kenton County
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**APPENDIX A SUMMARY OF AMENDMENTS**

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Kenton County Planning Commission

Regulations for Cellular Antenna Towers and Small Cell Towers In Kenton County

May 2, 2019
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of these regulations cites a provision of the Kentucky Revised Statutes (KRS), and that provision is later amended or superseded, these regulations shall be deemed amended to refer to the amended provision, or to the provision that most closely corresponds to the superseded provision.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 wires 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, telephone, 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 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.

**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.
ARTICLE II: CELLULAR ANTENNA TOWERS

SECTION 2.0 PRE-APPLICATION CONFERENCE: Applicants must contact Staff and request a pre-application conference. This meeting will allow for early coordination, by identifying existing structures that might be suitable for collocation and identifying any other items which are in conformance/nonconformance with the Comprehensive Plan, local zoning ordinance, and/or the provisions of these regulations. The meeting will provide an opportunity for an initial discussion regarding proposed structure locations, design and the Application submittal, and approval process. Applicants shall supply the Provider’s preferred location, base elevation, search ring, structure design style and structure height one week prior to the meeting with Staff and submitting an Application under these regulations.

SECTION 2.1 UNIFORM APPLICATION REQUIREMENTS: Applications for the construction of a Cellular Antenna Tower for Cellular Telecommunication Services or Personal Wireless Services shall include all information specified in KRS 100.985 – 100.987.

SECTION 2.2 ADDITIONAL INFORMATION: In addition to the Uniform Application requirements specified in KRS 100.985 – 100.987, Applicants for a Cellular Antenna Tower should submit the following information to Staff prior to the required pre-application conference to assure a quick and judicious review of the submittal.

A. A statement demonstrating that the proposal is in agreement with the Comprehensive Plan, and that the Applicant has attempted to Co-locate the proposed facility on an existing approved tower or facility or locate on sites that might be in better conformance with the adopted Comprehensive Plan, and that:
   1. Identifies the location of the sites attempted to locate; and
   2. Lists the reasons why the Co-Location or locating on the alternative sites was unsuccessful in each instance.

B. A development site plan, signed and sealed by a professional engineer registered in Kentucky, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet, showing the following information, where applicable. The Staff may waive the submission of such data involving detailed engineering study until such time as the Application has been approved.
   1. The total area of the site in question.
   2. All public and private Rights-of-Way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned.
   3. Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet.
4. Location, height, arrangement, and identification of all nonresidential buildings, structures, and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions.

5. A circle drawn on the site plan showing the setback distance requirement.

6. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences.

7. Location of signs, indicating their orientation, size, and height.

8. All electric Utility lines and easements.

9. Locations of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces.

SECTION 2.3 PROCESSING OF APPLICATIONS: Applications for the construction of new Cellular Antenna Towers for Cellular Telecommunications Services or Personal Communications Services shall be processed as follows.

A. At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two (2) or more times, in a newspaper of general circulation in the county, provided that one (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.

B. Notice of the hearing shall be posted conspicuously on the property in question, for at least fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of one (1) or more signs, constructed of durable material, and clearly depicting the following information: "(name of Utility) proposes to construct a telecommunications ("tower" or "monopole") on this site" (a minimum of one (1) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number, of the planning commission where additional information regarding the hearing may be obtained.

C. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the Staff that the notice was mailed to an owner of every parcel of property within five hundred (500) feet of the base of the proposed tower or Monopole. It shall be the duty of the
Applicant to furnish to the Planning Commission the names and addresses of said property owners. Records maintained by the Kenton County Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.

D. Upon holding such hearing, the Planning Commission shall review and take final action on Applications for new Cellular Antenna Towers within sixty (60) days of a completed Application, or within a date otherwise specified in a written agreement between the Planning Commission and the Applicant. This time period will not begin until the filing fee is submitted and the application is deemed complete. The Planning Commission shall notify the applicant once the application is deemed complete and provide the deadline for the review period. The Planning Commission shall either approve, approve with conditions, or deny the Application. If the Planning Commission does not make a final decision within the required sixty (60) days, or the date specified in the written agreement, the Application shall be deemed to be approved as submitted. The Planning Commission shall submit to the Applicant and the local zoning administrator, along with its action, the bases for the decision.

E. After a Cellular Antenna Tower for Cellular Telecommunications Services or Personal Communications Services is approved, separate building, zoning, and electrical permits are required from the local jurisdiction prior to the beginning of construction.

SECTION 2.4 DESIGN STANDARDS: At the time of Application submittal, the Applicant shall provide information demonstrating compliance with the following requirements. Where the Planning Commission finds that circumstances or conditions relating to the particular Application are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more requirements unreasonable, the Planning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any modification or waiver, along with justification for each, shall be requested in writing by the Applicant.

A. All Cellular Antenna Towers shall be constructed as a Monopole structure, unless Stealth or Camouflage technology is used, or unless a waiver is granted.

B. All cables and wires shall be installed inside the Monopole structure.
C. Unless required by state and/or federal regulations, all Cellular Antenna Towers shall be uniform grey or black in color.

D. All structures, except fences, shall be located a minimum distance from the property line or lease line of any adjoining property that is equal to one-half (1/2) the height of the tower, but not less than fifty (50) feet.

E. A Cellular Antenna Tower, or alternative antenna tower structure, may be a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than ten (10) feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The Planning Commission may allow antennas greater than two hundred (200) feet in height upon review of the Applicant's justification that the additional height meets the criteria identified in Section 2.4., above.

F. Cellular Antenna Towers shall not be illuminated, except in accordance with state or federal regulations.

G. The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.

H. Woven wire or chain link (eighty (80) percent open) or solid fences made from wood or other materials (less than fifty (50) percent open), shall be used to enclose the site. Such fences shall be eight (8) feet in height. The use of barbed wire or sharp pointed fences shall be prohibited. Such fence may be located within the front, side, or rear yard.

I. Screening shall be provided by evergreen trees, with a minimum height of six (6) feet, planted in a staggered pattern at a maximum distance of fifteen (15) feet on center. The screening shall be placed in a ten foot perimeter area surrounding the compound.

J. Any site to be purchased or leased for the installation of a Cellular Antenna Tower, or alternative antenna tower, and ancillary facilities, shall be at least two thousand five hundred (2,500) square feet in area, unless located on a pre-existing structure such as a building, water tank, etc.

K. Surfacing of all driveways and off-street parking areas shall comply with the requirements of the applicable local zoning ordinance.
L. There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state, or local agency. Such signs shall not exceed five (5) total square feet in area.

M. All new Cellular Antenna Towers shall be designed and constructed to accommodate a minimum of three (3) additional service Providers.

N. All option and site lease agreements shall not prohibit the possibility of co-location.

O. Cell towers locating in a residential zone shall be located on a lot in a location that would have the least impact on the natural setting and adjacent properties and in a location most compatible with surrounding properties. The Planning Commission shall have the authority to approve a proposed cell tower only at a different location on the same property if it determines an alternative location is more appropriate.

P. A cell tower in a residential district must be camouflaged in the form of an alternative tower structure such as an flag pole, light pole, or steeple so that it is compatible with the natural setting and surrounding structures as determined by the Planning Commission.

SECTION 2.5 EVALUATION CRITERIA: Evaluation of the proposal shall be based upon the following criteria.

A. Agreement with the various elements of the adopted Comprehensive Plan, and where applicable, any other adopted plan.

B. The extent to which the proposal is consistent with the purposes of these regulations.

C. The adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).

D. The extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.

E. The extent to which the proposed Cellular Antenna Tower is camouflaged (i.e., use of Stealth Technology).

F. The extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs).
SECTION 2.6 AMENDMENTS TO APPROVED PLANS: Any amendments to approved plans, except for the minor adjustments outlined below, shall be made in accordance with the procedure required by Section 2.3, subject to the same limitations and requirements as those under which such plans were originally approved. These regulations also apply to modifications and amendments to approved plans.

The following activities shall be considered minor adjustments from the original approval of an Application for towers not located in public Rights-of-Way. Changes are measured cumulatively from the original approval of the tower or Base Station.

A. Tower height increases of less than ten (10) percent or twenty (20) feet, whichever is less.

B. Support structure height increases of less than ten (10) percent or ten (10) feet, whichever is less.

C. New equipment extensions from a tower horizontally of less than twenty (20) feet or width of tower at elevation of change.

D. Structure or new item extensions on a Non-Tower Wireless Communication Facility horizontally less than six (6) feet from existing structure.

E. The addition of four (4) or fewer new equipment cabinets within the boundaries of the leased/owned site.

F. Any excavation or deployment within the current boundaries of the leased/owned site and any access/Utility easements.

G. Concealment elements of the tower are not defeated.

H. Activities that comply with all other conditions in any prior approval not related to the limits set forth above.
ARTICLE III: SMALL CELL TOWERS

SECTION 3.0 PRE-APPLICATION CONFERENCE: Applicants must contact Staff and request a pre-application conference. Upon receipt of this request, Staff will set up the meeting which shall include Staff, the Applicant, any applicable Utility providers, the local jurisdiction, and the owner of the right of way or property on which the Small Cell System is proposed to be installed. This meeting will allow for early coordination by identifying existing structures that might be suitable for collocation and identifying any other items which are in conformance/nonconformance with the Comprehensive Plan, local zoning ordinance, and/or the provisions of these regulations. The meeting will provide an opportunity for an initial discussion regarding proposed structure locations, design and the Application submittal, and approval process. Coordination with utilities for possible use of pre-existing structures will be required. Applicants should supply the Provider’s preferred locations, structure design style and structure height one week prior to the pre-application meeting or upon request for such meeting.

SECTION 3.1 APPLICATION SUBMITTAL: All proposed Small Cell Systems, except those exempted by Section 3.4, A., shall be subject to administrative review and approval by Staff. The factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of these regulations and the Comprehensive Plan. One Application for multiple proposed towers within the same Small Cell System is encouraged whenever possible. Where Staff finds that circumstances or conditions relating to the particular Application are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more requirements unreasonable, Staff may modify or waive such requirement, either permanently or on a temporary basis. Any modification or waiver, shall be requested in writing by the Applicant.

SECTION 3.2 REQUESTED APPLICATION INFORMATION: All information contained in the Application and any updates, except for any map or other information that specifically identifies the proposed location of the Cellular Antenna Tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction.

Applicants for the construction of Small Cell Systems for Cellular Telecommunications Services or Personal Communications Services may choose to provide either the Uniform Application per KRS 100.9865 or in lieu of the Uniform Application, the following information should be submitted:

A. An application fee shall be submitted based upon the following table;
<table>
<thead>
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<th>Number of proposed Small Cell Towers</th>
<th>Fee</th>
<th>Total</th>
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<tr>
<td>First tower</td>
<td>$325</td>
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<td>Second tower</td>
<td>Add’l $275</td>
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<tr>
<td>Third tower</td>
<td>Add’l $225</td>
<td>$825</td>
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<tr>
<td>4-10 towers</td>
<td>Add’l $200/tower</td>
<td>$1,025-$2,025</td>
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Applications are limited to ten (10) towers per Application. Multiple towers may only be included on a single Application if they are located within the same city or unincorporated area of the County.

B. A written description and map showing the coverage area of the provider’s existing facilities in the general and site-specific areas that are the subject of the Application.

C. A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a gap capacity shortfall, expand or provide new coverage, or to deploy new technology in the Applicant or provider’s service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.

D. A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, the Kentucky Public Service Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.

E. A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.

F. A full description of the number and dimensions of all Small Cell Towers proposed to be installed.

G. A site development plan, signed and sealed by a professional engineer registered in Kentucky, showing the proposed location of the tower and existing structures within five hundred (500) feet of the proposed site. For Applications in which multiple towers are proposed, an overall site development plan showing all proposed locations within a single city or unincorporated area must be provided.

H. A vertical profile sketch or drawing of the towers, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas and equipment enclosures.

I. A statement indicating the individual who is the authorized agent and their preferred email and mailing address to receive communications under these
requirements.

J. Photographs of view shed from each proposed tower location, taken in at least four directions.

K. Description of whether other Overhead Utilities exist within five hundred (500) feet of the proposed antenna location.

SECTION 3.3 PROCESSING OF APPLICATION:

A. Applications will be reviewed for substance only when they meet all submittal requirements. If applications are not complete, staff must notify the applicant within ten (10) days from the submission of the application stating the application is incomplete and identifying the missing materials, which must be submitted in order to complete the application. No further review of the application will take place until the application is complete. If the resubmitted materials are not complete, staff must notify the applicant within ten (10) days from the submission of the application stating the application is incomplete and identifying the missing materials, which must be submitted in order to complete the application. No further review of the application will take place until the application is complete.

B. Staff shall review and take final action on Applications for new Small Cell Systems within sixty (60) days of a completed Application. This time period will not begin until the application is deemed complete by Staff. Staff shall notify the applicant once the application is deemed complete and provide the deadline for the Staff review period. Staff shall either approve, approve with conditions, or deny the Application. If Staff does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.

C. An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of Staff in the administration of these regulations may appeal the action to the Planning Commission. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by Staff. The appeal shall be filed with Staff along with an appeal fee of five hundred dollars ($500). Staff will fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant, the jurisdiction where the proposed Small Cell System is located, and the owner of Right-of-Way or property (if different from the jurisdiction) at least one (1) calendar week prior to the hearing.

An applicant claiming to be injured or aggrieved by any final action of the Planning Commission shall appeal from the final action to the circuit court of the county in which the property is located. Such appeal shall be taken within thirty (30) days after such action.
D. **WAIVERS TO THESE REGULATIONS:** This section sets forth a procedure by which the Planning Commission may allow for waivers of these regulations. The purpose is to allow some flexibility in dealing with unique issues that are outlined in Subsection 4 below.

1. An application requesting a waiver, a $500 fee, and any additional documentation necessary to meet the requirements of this section shall be submitted for review.

2. The Planning Commission shall hold at least one public hearing after giving notice as according to KRS 424 for the purposes of reviewing the requested waiver.

3. After the public hearing, the Planning Commission may approve, approve with conditions, or disapprove the requested waiver.

4. The Planning Commission may grant a waiver to these regulations balanced against the public interest, providing the Planning Commission finds that the waiver will not be detrimental to the public interest and that the jurisdiction where the proposed small cell tower is to be located approves the waiver, and at least one of the following criteria apply:
   a. That strict compliance with these regulations will create a hardship or unsafe situation in the face of unusual conditions.
   b. That granting the waiver creates a situation more in keeping with unique character within the general vicinity.
   c. That the requested waiver better meets the objectives of these regulations.
   d. That granting the waiver creates a safer situation than strict compliance with these regulations.

E. In addition to KCPC approval, separate applicable building, zoning, and electrical permits, and permission from the local jurisdiction, Right-of-Way or property owner are required prior to the beginning of construction.

F. If KCPC issues a small cell tower permit which conflicts with a City’s permit for the same small cell tower, the City’s permit will preempt KCPC’s permit and so long as the applicant is in compliance with the City’s permit, the applicant will be deemed to be in compliance with KCPC’s permit

**SECTION 3.4 SMALL CELL TOWER LOCATION AND DESIGN REGULATIONS:** A new Small Cell System is subject to design review and approval by Staff. The design criteria required for the new Small Cell Systems is determined by the type of location or zoning district in which the facility is to be located.

A. **NON-TOWER SMALL CELL SYSTEM LOCATIONS:** No administrative review by
Staff is required for antennas locating on existing telecommunications structures, water towers, buildings, Utility Poles (as defined by this regulation) or other existing structures. These non-tower locations must adhere to all other applicable federal, state, and local zoning codes, building codes or permits.

B. NEW SMALL CELL SYSTEM TOWER LOCATIONS IN ALL ZONING DISTRICTS: The regulations in this subsection apply to all new Small Cell System Towers.

1. Temporary, mobile or wheeled cellular antenna towers shall not be permitted.

2. New Small Cell Towers shall not exceed the maximum building height for the zoning district within which they are located. A height that is in excess of what is permitted within the zoning district may be approved by staff if it integrates stealth technology that better meets the objectives of these regulations.

3. New Small Cell Towers shall be designed and constructed to accommodate a minimum of two (2) service providers.

4. New Small Cell Towers may be located on public or private non-residential land or within a public Right-of-Way provided it does not interfere with other utilities, functionality of sidewalks, visibility, or other matters of public safety.

5. New Small Cell Towers shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.

6. New Small Cell Towers shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.

7. If a new Small Cell Tower is located in an area with primarily Underground Utilities, or where no adjacent Overhead Utility lines exist, it shall not utilize Overhead Utility lines.

8. In instances where an antenna is proposed to be constructed within a historic or commercial district with established public or private design control measures, regulations in subsection 3.4, C., shall be followed.
Efforts shall be made to adhere to any established design control measures or existing furnishing or fixture styles within the district. Where additional local design review processes exist, such as Certificates of Appropriateness or Urban Design Review Boards, such approvals may be required.

C. NEW SMALL CELL SYSTEM TOWER LOCATIONS IN RESIDENTIAL ZONES:
The regulations in this subsection apply to Small Cell Towers to be located within, or immediately adjacent to, residential zoning districts as defined in Article III, Section 3.4., D., (1).

1. Facilities in residential areas are strongly encouraged to be Non-Tower Wireless Communication Facilities, which are exempt from these regulations per Article III, Section 3.4, A.

2. New Small Cell Towers and Antenna or Related Equipment shall be camouflaged by Stealth Technology. Examples of appropriate Stealth Technology for residential areas includes, at a minimum, towers with all cables, wires, Transmission Equipment, electric meters, power equipment, etc. installed inside the Small Cell Tower. Other types of stealth technology or other methods which will reduce the visual impact may be approved by Staff.

3. All poles and antennas shall be uniform grey or black in color, unless another color is integral to the Stealth Technology as approved by Staff.

4. The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.

5. New Small Cell Towers should avoid areas without Overhead Utilities. If a Small Cell Tower is located in an area with primarily Underground Utilities it must adhere to Stealth Technology that incorporates the telecommunications equipment into a streetscape amenity such as a decorative lamp post, street light or other approved design. In areas with Overhead Utilities, cylindrical antennas are required.

6. In residential areas, a Small Cell Tower shall not be located closer than the height of the proposed tower to an existing or proposed residential structure, or no closer than thirty (30) feet, whichever is greater.

7. Efforts should be made to locate new Small Cell Towers in the yard location where other Overhead Utilities are located.

8. New Small Cell Towers within residential areas should be located to avoid obstructing the view of building facades by placing the tower at a
corner, intersection or along a lot line.

9. New Small Cell Tower shall not be located within five hundred (500) feet of an existing Small Cell System Tower. Multiple carriers are permitted and encouraged to locate on one tower, where possible.

10. Reasonable efforts shall be made to locate new Small Cell Towers in the order of hierarchy below, based on the following functional roadway classification from the most to least preferred:

   a. Interstate
   b. Arterial
   c. Collector
   d. Local

D. NEW SMALL CELL SYSTEM TOWER LOCATIONS IN NON-RESIDENTIAL ZONES: The regulations in this subsection apply to towers to be located within non-residential zoning districts.

1. In instances where a facility is proposed to be constructed in the right of way within one hundred (100) feet of a residential zone or use, even if the antenna’s physical location is within a non-residential zone, regulations in subsection 3.4, C., shall be followed.

2. Antennas in commercial, institutional, or park areas are encouraged to be installed as Non-Tower Wireless Communication Facilities, which are exempt from this regulation per Article III, Section 3.4, A.

3. Reasonable effort shall be given to locate new equipment based upon the following hierarchy of zones and land uses from the most to least preferred:

   a. Co-locate on an existing structure whenever possible, which is exempt from these regulations, per Section 3.4, A.
   b. Institutional.
   c. Industrial.
   d. Commercial.
   e. Public parks.
   f. Agricultural.

4. Equipment enclosures, including electric meters, should be nearly the same width as the pole or as small as possible. Ground mounted equipment boxes should be screened from view with shrubs or other appropriate screening as approved by Staff.

5. Shrouds, risers, and conduits shall be used to reduce the appearance of
6. All poles, antennas, brackets, cabling, risers, shrouds, and conduits shall be uniform grey or black in color, or other color as approved by Staff.

7. Cylindrical antennas shall be required, unless another antenna style is integral to the Stealth Technology as approved by Staff.

8. There shall be no more than a four (4) inch offset between the pole and pole mounted equipment enclosures.

SECTION 3.5 EVALUATION CRITERIA: Evaluation of the proposal shall be based upon the following criteria and shall be subject to administrative approval by Staff:

A. The extent to which the proposal is consistent with the purposes of these regulations.

B. The extent to which the proposal minimizes the impact on adjacent land uses, especially in terms of visual impact.

C. The extent to which the proposed facility is camouflaged (i.e., use of Stealth Technology).

D. The extent to which the proposed facility conforms to the character of the surrounding area (i.e., buildings, street lighting, signs).

SECTION 3.6 AMENDMENTS TO APPROVED PLANS: Any amendments to plans, except for the minor adjustments outlined below, shall be made in accordance with the procedure required by Section 3.3, subject to the same limitations and requirements as those under which such plans were originally approved.

The following activities shall be considered minor adjustments from the original approval of an Application for towers located in public rights of way. Changes are measured cumulatively from the original approval of the tower or Base Station.

A. Tower height increases by less than ten (10) percent or ten (10) feet, whichever is greater.

B. Change in the tower width of less than ten (10) percent or six (6) feet, whichever is greater.
### APPENDIX A

#### SUMMARY OF AMENDMENTS

<table>
<thead>
<tr>
<th>SUMMARY OF AMENDMENTS</th>
<th>DATE ADOPTED BY KCPC</th>
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</thead>
<tbody>
<tr>
<td>New regulations adopted</td>
<td>May 5, 2016</td>
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</table>

(1) Section 1.14 amending the definition of “Small Cell Tower” to include Wi-Fi antennas; (2) Adding Section 3.3, C, Waivers to these Regulations; (3) Section 3.4, B., 2., allowing a height greater than what is permitted within the zoning district; (4) Section 3.4, C., 2., allowing staff to approve other methods which will reduce visual impacts | October 6, 2016 |

Changes respond to the Federal Communications Commission’s Declaratory Ruling and Third Report and Order dated September 27, 2018, made effective January 14, 2019

(1) Section 3.2, A., amending the application fees based upon an objective analysis of fees and costs collected to date; (2) Section 3.2, C., and Section 3.2, I., modifying the application Requirements; (3) Section 3.3 clarifying the procedures for incomplete applications | March 7, 2019 |

Modifying application requirements by clarifying and addressing any additional city approval processes that may be required for small cell towers | May 2, 2019 |