

AN ORDINANCE ESTABLISHING THE COUNTY ZONING
CODE REGULATING COMMERCIAL USE OF ANTENNA TOWERS

September 16th, 2019

THE BOARD OF SUPERVISORS OF STONE COUNTY, MISSISSIPPI, HEREBY
ADOPT AND ORDAIN AS FOLLOWS:

Article I. Purpose and Intent.

The purpose of this ordinance is to facilitate the rapid expansion of the wireless telecommunications industry through the use of reasonable and nondiscriminatory policies designed to encourage growth and competition for the benefit of the citizens of the County of Stone, but at the same time to protect the public against any adverse impact upon the County's aesthetic resources, avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements, maximize the use of existing and approved towers and buildings through co-location, and protect the public health, safety and welfare.

Article II. Definitions.

- (a) Antenna - Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, satellite dishes, and omni directional antennas, such as whip antennas.
- (b) Board - The Board of Supervisors of Stone County, Mississippi.
- (c) Commercial Wireless Telecommunication Services - Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.
- (d) FAA - Federal Aviation Administration.
- (e) FCC - Federal Communications Commission.
- (f) Governing Authority - Shall mean the County Board of Supervisors of Stone County, Mississippi.
- (g) Height - The height of a tower generally is the distance from the base of the tower to the top of the structure. Height is more specifically defined herein.
- (h) Person - Any natural person, a partnership of two (2) or more persons having a joint or common interest, corporation, partnership, limited partnership, limited liability company, or other entity or form of entity, including an association of persons or

entities.

- (i) Public Utility - Persons, corporations or governments supplying gas, electric, transportation, water, sewer or land line telephone service to the general public. For the purpose of this ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses and are defined separately.
- (j) Tower - Any ground or roof mounted pole, spire, mast, structure or combination thereof taller than twelve (12) feet, including supporting lines, cables wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

Article III. Applicability.

Section 1. District Height Limitations.

(a) The requirements set forth in this ordinance shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified herein.

Section 2. Amateur Radio: Receive-Only Antennas.

(a) This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height, located in the rear yard of residences, and is owned and operated by a federally-licensed amateur radio operator or is used exclusively for receive-only antennas.

Section 3. Grandfathered Towers and Antennas.

(a) Any tower or antenna shall not be required to meet the requirements of this ordinance, other than the requirements of applicable federal and state laws, rules and regulations. Any such towers or antennas previously approved by the Board or existing in the County on the effective date of this ordinance that fail to meet the requirements of this ordinance shall be referred to in this ordinance as "grandfathered towers" or "grandfathered antennas."

Section 4. Violations.

(a) Any person who violates any of the provisions of this ordinance is guilty of a misdemeanor and upon conviction, is subject to a fine of not more than \$500.00 per day for each day this ordinance was violated. Violations may also be subject to appropriate action to have the offending tower or antenna removed.

Section 5. Application to Satellite Dishes.

(a) This ordinance shall apply to all satellite dishes and other forms of antennas located within the County of Stone, except that the following shall be exempt from the requirements of this

ordinance:

- (1) Any antenna or satellite dish described below that is mounted at a height no greater than twelve (12) feet above grade (this measurement includes both the height of the mast or tower to which the antenna is attached as well as the height of the structure upon which it is mounted, such as a house, if applicable):
 - (A) that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
 - (B) that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement.
- (2) An antenna that is designed to receive television broadcast signals that is mounted at a height no greater than twelve (12) feet.
- (3) A tower and antenna designed to receive television broadcast signals for personal, private, non-commercial usage shall be exempt from this ordinance.

(b) The County of Stone expressly finds that in order to protect the safety and welfare of its citizens, to protect adjacent property owners from damage by excessively tall, bulky or heavy antennas mounted on insufficiently designed or constructed towers or mast and to insure the aesthetic value of the County is protected, it is necessary to regulate antennas that exceed the requirements of Paragraph (a) by application of the provisions of this ordinance.

(c) Any antenna or satellite dish that does not fall within the exceptions set forth in (a) above shall be subject to applicable regulations contained in this ordinance.

Article IV. Application and Fees.

Section 1. Permit.

- (a) It shall be unlawful for any person, firm or corporation to:
 - (1) erect or construct a new tower;
 - (2) replace or modify an existing tower;
 - (3) place, replace or modification of an antenna on any tower, existing or new; and

(4) place or make any modifications to all other equipment and / or the grounds at the site without first making application to the Stone County Building and Code Department and securing a permit therefore as provided herein as approved by the Board.

Section 2. Fees.

(a) The application shall be accompanied by a non-refundable application fee. Such fees have been established by the Board of Supervisors and are specified below:

Schedule of Fees

Application Fee for the erection of a new tower -----	\$1,500.00
Application Fee for antennas on a new tower (per antenna) -----	\$250.00
Application Fee for placement or replacement of antennas on an existing tower (per antenna)-----	\$750.00
Application Fee for structural modification of an existing tower -----	\$750.00
Application Fee for placement or modification to all other equipment and / or the grounds of an existing tower-----	\$0.00
Application Fee for placement, replacement, or non-structural Modification to an antenna to include Tower Mounted Amplifiers, Remote Radio Units, or other devices designed to enhance or boost Cellular signals of an existing tower (per item) -----	\$250.00

Section 3. Application for New Towers.

(a) Each application shall contain the following information as well as additional information that the Board of Supervisors may from time to time require:

(1) The name, address and telephone number of the person requesting the permit. The person named shall be a primary contact who has authority to act on behalf of the person or entity requesting the permit.

(2) Site Plan: The Site Plan shall contain a scaled site plan and a scaled elevation view and other supporting drawings and design data showing the proposed location of the tower, antenna or both, as well as the location of all other towers used to provide services within the County of Stone. The plan shall show all improvements associated with the tower or antenna including equipment facility, landscaping, parking access and fencing. (two full size engineering sets required).

- (3) A report from a qualified and licensed professional engineer which describes:
 - (A) the tower and/or antenna height and design, including a cross section and elevation;
 - (B) the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - (C) the tower's capacity, including the number and type of antennas that it can accommodate;
 - (D) what steps the applicant will take to avoid interference with established public safety telecommunications;
 - (E) an engineer's stamp and registration number;
 - (F) other information necessary to evaluate the request;
 - (G) the distance from the base of the tower to the boundary of the property of the applicant; and,
 - (H) why co-location on an existing tower or structure is not possible.
- (4) Owners of all commercial wireless telecommunications service towers shall file a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (5) Written authorization from the site owner for the application.
- (6) Before the issuance of a permit for the construction of a tower, the following supplemental information shall be submitted:
 - (A) Proof that the proposed tower complies with regulations administered by the FAA; and
 - (B) A report from the qualified and licensed professional engineer which demonstrates the tower's compliance with structural and electrical needs required by this ordinance.
- (7) The cost of the tower, antenna and other related facilities.
- (8) The estimated cost for removal of the tower should it become abandoned or unused.

- (9) A copy of all information submitted to the Mississippi Department of Archives and History for Section 106 review purposes under the National Preservation Act and 36CFR Part 800, along with a copy of the letter or certificate clearing the tower, if received, from the Mississippi Department of Archives and History.

Section 4. Processing.

(a) Each application shall be processed within a reasonable period of time after the application has been filed. A permit or denial shall issue not later than 60 days after the date on which the application was made with all accompanying information required by this Ordinance. The Governing Authority may extend the time period for granting or denial of a permit beyond the allowed time in increments not to exceed thirty (30) days if the Governing Authority finds that due to the nature and scope of the application additional time is required. The reasons for the additional time shall be provided to the applicant in writing.

(b) If the request for a permit is denied, then the denial shall be in writing setting forth each specific reason for the denial. The reasons for the denial shall be entered in the written records of the County.

(c) A denial shall be supported by substantial evidence.

Article V. Regulations

The Governing Authority (1) shall not unreasonably discriminate among providers of functionally equivalent services; and (2) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

Section 1.

(a) All applications shall affirmatively show:

- (1) The height of the tower for which a permit is sought must meet a minimum setback distance from adjacent property lines equal to or greater than the proposed height of the tower (measured from the base of the tower to the top) plus a 50 foot safety zone.
- (2) In the event a tower cannot be built or replaced in accordance with the specifications required in Article V, Section 1, (1), the applicant may submit a request by adhering to the following:

Submit a letter under the certified seal of a professional registered design engineer stating that in the event of a catastrophic failure, the proposed tower will be designed and manufactured to fail at one or more specifically designated points which will cause the tower to collapse within the leased

site area with a minimum 50' fall setback safety zone from adjacent property owners and established structures..

- (3) The applicant has and agrees to maintain for the time the tower is in existence, a general liability policy written by a company licensed to do business in the State of Mississippi in an amount of not less than \$ 1,000,000.00 for each occurrence. A copy of such policy shall be filed with the Stone County Building and Code office prior to commencing construction of the tower. Failure to maintain such policy shall result in a termination of the permit.
- (4) If the permitted tower is sold, it shall be the responsibility of the new owner to notify the Stone County Building and Code and furnish a general liability policy written by a company licensed to do business in the State of Mississippi in an amount of not less than \$1,000,000.00 for each occurrence. A copy of such policy shall be filed with the Stone County Building and Code office prior to the new owner taking possession of the tower. Failure to furnish and maintain such policy shall result in termination of the existing permit.
- (5) If a permitted antenna is sold, it shall be the responsibility of the new owner to notify the Stone County Building and Code office of the new owner's name, mailing address and local cellular service provider.

Section 2.

(a) The Board of Supervisors shall consider the following factors in determining whether to issue a permit, although the Board may waive or reduce the burden on the applicant of one or more of these criteria, if, in its sole discretion, the goals of this ordinance are better served thereby:

- (1) Height of the proposed tower or antenna;
- (2) Proximity of the tower to adjoining structures and residential district boundaries;
- (3) Technical or engineering requirements limiting placement of the tower in other areas in order to provide coverage;
- (4) Nature of uses on adjacent and nearby properties;
- (5) Surrounding topography, tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

- (7) Availability of suitable existing towers and other structures.

Article VI. Towers Performance Standards and Other Requirements.

Section 1. Co-Location Requirements with Existing Towers or Other Structures.

(a) All towers erected, constructed or located within the County shall comply with the following requirements:

- (1) Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height but less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (2) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board that no existing tower or other structure can accommodate the applicant's proposed antenna within a three (3) mile search radius for towers 120 feet or taller and within a one (1) mile search radius for towers under 120 feet in height but taller than 80 feet, and one-half (½) mile search radius for towers under 80 feet in height of the proposed tower. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - (A) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - (B) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (C) Existing towers or structures do not have sufficient structural capacity to support applicant's proposed antenna and related equipment, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - (D) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (E) The fees or costs required to share an existing tower or structure or

to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower construction are presumed unreasonable.

- (F) Property owners or owners of existing towers or structures are unwilling to accommodate reasonably the applicant's needs.
 - (G) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (3) Any evidence submitted to the governing authority in order to meet the requirements of Paragraph (b) shall be documented by a qualified and licensed professional engineer.

Section 2. Tower Construction Requirements.

(a) All towers erected, constructed or located within the County, and all wiring therefore, shall comply with the requirements set forth in the National Electrical Code.

Section 3. Tower and Antenna Design Requirements.

(a) Towers and antennas shall be designed to blend into the surrounding environment, to the extent possible, through the use of color and camouflaging architectural treatment, unless the FAA or other federal or state authorities require otherwise or that the goal of co-location would be better served by an alternate design.

Section 4. Tower Lighting.

(a) Towers shall not be illuminated through the use of artificial lights such as strobe lights or other lighting devices unless specifically required by the FAA or other state and federal government agencies. Lighting shall not result in unnecessary glare on adjacent residential properties. Light fixtures may be attached if it is part of the design incorporated into the tower structure to be used for the illumination of athletic fields, parking lots, streets or other similar areas. Lighting of the accessory buildings for basic security purposes is permissible but may not result in unnecessary glare on adjacent properties in residential areas.

(b) Should lighting be required by state or federal law, the lighting shall be placed on the tower and designed in such a way as to minimize the glare on adjacent residential properties and shall be designed in such a way as not to result in unnecessary glare on adjacent residential properties. White strobe lights may not be used unless required. Dual lighting of red lights for nighttime and high intensity flashing white lights for daytime and twilight shall be used as described in the Federal Aviation Administration Advisory Circular AC 70/7460-K1, Chapter 9, effective 3/1/2000.

Section 5. Signs and Advertising.

(a) Towers shall not display signs or advertisements for commercial or non-commercial purposes, unless such signs are for the purpose of providing warning or specific equipment information.

Section 6. Accessory Utility Buildings and Screening.

(a) All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of any applicable ordinance. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. The Board may require additional screening or otherwise require design modifications to insure that the attractiveness and the aesthetic quality of the area are not adversely impacted.

Section 7. Abandoned or Unused Towers.

(a) All abandoned, unused or obsolete towers and accompanying accessory facilities shall be removed by the property owner within 12 months of cessation of use. In the event that a tower and its associated facilities are not removed within 12 months of cessation of operations at a site, the tower and associated facilities may be removed by the County and the costs of removal assessed against the property and bond herein required.

(b) Prior to the issuance of a permit, the applicant shall file with the Board a bond in an amount equal to the engineer's estimate of the cost to remove the tower and all accessory facilities. Such bond shall be for a term co-extensive with the existence of the tower.

Section 8. Proof of Non-interference.

(a) Each application for construction of a wireless telecommunication facility shall include either a preliminary or a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television and public safety communications devices or other services enjoyed by adjacent residential and nonresidential properties. In the event only a preliminary statement is submitted with the application, a final certified statement of noninterference will be provided and approved prior to issuance of a permit. The certificate shall be certified by a licensed engineer.

Section 9. Radio Frequency Emissions.

(a) Each application must show that any antennae placed on the tower meets state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new or more restrictive standards are adopted, then the antennae shall be made to comply or continued operation may be restricted.

Section 10. Spacing.

- (a) Tower locations may not be closer than:
- (1) three (3) miles for towers 120 feet or taller;
 - (2) one (1) mile for towers under 120 feet in height but taller than 80 feet; and,
 - (3) one-half (½) mile for towers under 80 feet in height;

to the proposed new tower and as set forth in **Article VI Section 1. (a) (2)**.

Section 11. Indemnity; Claim Resolution.

(a) The owner of the tower and all communications service providers must show by certificate of a registered engineer that the proposed facility will contain only equipment meeting FCC rules.

Section 12.

(a) Should any provision of this Ordinance be in conflict with any state or federal law, rule or regulation, this Ordinance shall be considered amended to comply with law, rule or regulation. The invalidity of any provision shall not affect other provisions which shall remain in full force and effect.

SO ORDERED, this the 16th day of September, 2019:



PRESIDENT STONE COUNTY BOARD
OF SUPERVISORS

ATTEST:



CLERK OF THE BOARD

