

ORDINANCE 99-51

AN ORDINANCE OF THE TOWN OF UNICOI, TENNESSEE TO ESTABLISH STANDARDS FOR TELECOMMUNICATIONS FACILITIES

Whereas, the Town of Unicoi, Tennessee wishes to establish standards for telecommunications towers to minimize adverse visual and operational effects of towers through careful design, siting, and screening; to avoid potential damage to adjacent properties from tower failure through engineering and careful siting of towers, and to maximize use of any new communication tower and/or existing structures to reduce the number of towers needed, now therefore,

BE IT ORDAINED that this ordinance includes the following:

1401. Purpose. Telecommunications towers and antennas will use the following standards to minimize adverse visual and operational effects of towers through careful design, siting, and screening; to avoid potential damage to adjacent properties from tower failure through engineering and careful siting of towers, and to maximize use of any new communication tower and/or existing structures to reduce the number of towers needed.
1402. Applicability and Exemptions
 - 1402.1 New Towers and antennas. All new towers and/or antennas in the Town of Unicoi shall be subject to these regulations except non-commercial hobby type antennas/towers located on property owned, leased, or otherwise controlled by the Town or other governmental entity which are used for public purposes, and antennas less than forty-five (45) feet in height which are located on structures such as water tanks and buildings.
 - 1402.2 Pre-existing Towers or Antennas. Pre-existing towers and preexisting antennas shall not be required to meet the requirements of this article, other than state and federal regulations and building codes.
- 1403.3 Amateur radio and hobby type antenna support structures. Residents where not prohibited by deed or other restrictions may install a single antenna support structure that meets standard setback requirements and that does not exceed forty-five (45) feet in height for their hobby or other noncommercial use. "Crank up" type towers may exceed this height provided they do not exceed the forty-five (45) foot height restriction in the "cranked down" position where they must remain when not in use.

1403. Locating Towers

- 1403.1 Monopole towers and stealth-type antenna support structures are permitted as of right, subject to applicable regulations, in the B-3, Intermediate Business, B-4, Arterial Business, M-1 Manufacturing Warehouse, and M-2 High Impact Use districts, and within apartment developments in R-3 High Density Residential districts.
- 1403.2 Monopole towers and stealth-type antenna support structures are permitted as special exceptions, upon a showing that such location and such antenna support structure is required to prevent an effective denial of coverage, and subject to applicable regulations, in the following districts; A-1 General Agricultural District, R-1, Low Density residential, R-1A, Low Density residential, R-2, Medium density residential, and B-1, Neighborhood Business districts, and in non-apartment areas in R-2 Medium Density, and R-3 High Density Residential districts;
- 1403.3 Towers are not permitted in the H-1, Historic Overlay District and B-2, Central Business districts.
- 1403.4 Lattice self-supporting and guyed towers are permitted as special exceptions in the B-3, Intermediate Business, B-4, Arterial business, M-1, Manufacturing Warehouse, and M-2, High Impact Use districts, upon a showing that such location and such antenna support structure is required to prevent an effective denial of coverage.
- 1403.5 Monopoles in excess of the height requirements of Section 1405.16.3 permitted as special exceptions in A-1 General Agricultural; R-1, Low Density residential, R-1A, Low Density Residential, R-2, Medium Density Residential, R-3 High Density residential, M-R, and B-1, Neighborhood Business districts, upon a showing that such location and such antenna support structure is required to prevent an effective denial of coverage.
- 1403.6 Monopoles and stealth-type antenna support structures are permitted as a matter of right on municipal power line utility easements, provided that the Erwin Utility System gives its consent and the antenna support structure is incorporated into the power line support structure
- 1403.7 Monopoles and stealth type antenna support structures up to one hundred sixty (160) feet in height are permitted as a matter of right on municipal property in all districts excepting the H-1 Historical Overlay District provided that the appropriate governing body approves.

1404. General Requirements

1404.1 Aesthetics. Towers and antenna support structures shall meet the following requirements.

1404.1.1 Towers and antenna support structures shall maintain a galvanized steel finish and shall not be painted unless previously approved by the Town of Unicoi.

1404.1.2 Stealth type antenna support structures are to be encouraged in areas of high population density.

1404.1.3 Towers or antenna support structures of any kind, including amateur, will not be permitted to be located in the front yard of any residence or on the roof of any single family residence.

1404.1.4 At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

1404.1.5 If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

1404.1.6 Flush mounted (within two feet of the surface) antenna will be utilized on monopoles where feasible.

1404.2 Buildings or Other Equipment Storage. The equipment cabinet or structure used in association with antennas shall be constructed in accordance with the following.

1404.2.1 In the R-3 High Density Residential District equipment enclosures shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height for each carrier using the site.

1404.2.2 In A-1 General Agricultural; R-1 Low Density Residential, R-1A Low Density Residential, R-2 Medium Density Residential, R-2 Medium Density Residential, B-1 Neighborhood Business, and B-2, Central business districts, the equipment enclosure shall be no larger than one hundred (100) square feet of gross floor area or be more than five (5) feet in height for each carrier using the site.

1404.2.3 In all other districts they shall be no greater than twelve (12) feet in height or two hundred (200) square feet of gross floor area for each carrier using the site.

1404.2.4 In all above cases where equipment shelters are mounted outside existing buildings, the equipment enclosures must be designed such that they blend in with the local environment and be unobtrusive in addition to those requirements set forth in 1404.7 hereof.

1404.3 Building Codes. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town of Unicoi concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower at the owner's expense.

1404.4 Certification. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications

1404.5 Compliance. A description of compliance with this ordinance and all applicable federal, state or local laws relating to such tower/antenna support structure shall be submitted with each request for a tower/antenna.

1404.6. Franchise, Permits and Licenses. Owners and /or operators of towers, antenna support structure, or antennas shall certify that all franchises, licenses, and permits required in the Town of Unicoi have been obtained and shall file a copy of all required franchises, licenses and permits with the Town in their initial application. Permits will not be granted to any applicant that does not hold a valid FCC issued licensee or permit or a letter of commitment to use the requested structure from an FCC permittee or licensee upon completion, at the time of application.

1404.7 Landscaping. All new tower facilities, or reconstructed tower facilities, are required to provide an evergreen screen or artificial buffer located outside the required lower fencing. This screen may consist of evergreen trees, having a minimum height of six (6) feet at planting and a minimum height of fifteen (15) feet at maturity, or a continuous hedge with three (3) feet height at planting and a six (6) foot height at maturity, or in the alternative, an artificial buffer of colored

archival fencing material that blends in with the surrounding land use. The Board of Zoning Appeals may grant a variance to the landscaping requirements if they find existing vegetation adequate to provide a buffer.

1404.8 Lighting. Towers and antenna support structures shall not be artificially lighted, unless required by the FAA or other applicable authority. Deflectors shall be utilized to direct the light upwards and away from residential area. Further, where lighting is required, the lights so installed shall be of the "dual lighting" variety whereby white strobe lights are permitted for daytime and red lights for night time. White strobe lights for night operation are not permitted in the Town of Unicoi. Any lighting required will be to the dual lighting requirements of the FAA.

1404.9 Measurement. For the purposes of measurement, tower setbacks and separation distances shall be calculated from the base of the tower.

1404.10 Principal or accessory Use. Towers may be considered either principal or accessory uses, while antennas are accessory uses.

1404.11 Security.

1404.11.1 All towers shall be equipped with an appropriate anti-climbing device or the removal of climbing pegs on the first twenty (20) feet of the structure.

1404.11.2 Security fences will not be permitted in R-1, Low Density Residential, and R-1A, Low Density Residential Districts except as special exceptions. All cabling within twenty (20) feet of the ground shall be enclosed in conduit or other secure enclosure and all cabinetry shall be locked.

1404.11.3 Security fences are permitted in all other districts and may be required at the discretion of the Building Official except in locations on municipal property when fencing may be required at the discretion of the appropriate governing body. These fences shall be not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device. The fences shall remain located when not in use.

1404.2. Separation. Towers shall comply with the minimum separation standards established in Table 1.

TABLE 1

Type of Use

Distance between tower and use

Single family dwellings	150 feet
Vacant A-1, R-1 or R-2 zoned land which is either platted or has preliminary subdivision plat approval which is not	150 feet

expired	
Vacant unplatted residentially zoned lands	200 feet
Existing multi-family residential units (3) Units or more)	100 feet
Non residentially zoned lands or nonresidential uses	None, only setbacks for district apply

*The separation distances listed in Table 1 do not apply to monopoles which become part of the utility system. These poles, because of their nature, will be closer to residential structures than the above listed area.

1404.12.1 A special exception may be granted in instances when written permission has been obtained from all persons owning land within the above cited distance.

1404.13 Setbacks

1404.13.1 Towers proposed to be located in A-1 General Agricultural, R-1, Low Density Residential, R-1A, Low Density Residential, R-2, Medium Density Residential, R-3, Medium Density, R-4 High Density Residential, and B-1 Neighborhood Business districts, must be set back a distance of one (1) foot for each two (2) feet of the height of the tower from any adjoining lot line, provided however, that all towers must also meet the separation distances listed in Section 1404.12. Accessory buildings must satisfy the minimum zoning district setback requirements.

1404.13.2 Towers proposed to be located in all other districts shall meet the minimum setback requirements for that district, provided however, that all towers must also meet the separation distances listed in Section 1404.12.

1404.14 Signs. No commercial signs, including banners, shall be permitted on the antenna or antenna support structure. Any sign required by the FCC, FAA, OSHA or any other appropriate authority will be permitted so long as said sign is no larger than twelve (12) inches by eighteen (18) inches and is placed within eight (8) feet of the base of the tower. However, an additional sign no larger than stated above indicating the owner of the facility and a telephone number to call for more information or in an emergency shall be allowed inside the compound fence on the side the gates are located.

- 1404.15 State or Federal Requirements all towers and antenna support structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owners expense.
- 1404.16 New Towers. A new tower/antenna support structure will not be permitted unless the tower is designed to support a minimum of three (3) communications carriers antennas and feedlines, except for ninety (90) foot or shorter monopoles which must be designed to support a minimum of two (2) carriers antennas and feedlines. The applicant for the permit certifies that it will make space on the tower available to other communications carriers at a reasonable cost. Should there be a dispute over what constitutes a "reasonable cost" the matter will be resolved by binding arbitration with arbitration costs to be borne by the parties. An arbitrator will be chosen by mutual agreement of the parties, but if they are unable to agree on an arbitrator, one will be selected by the Town of Unicoi.
- 1404.16.1 Where a new antenna support structure/tower is permitted to be constructed in A-1 General Agricultural R-1, Low Density Residential, R-1A, Low Density Residential, R-1 Medium Density residential, R-3 Medium Density Residential, and R-4, High Density residential Districts the owner shall be required to submit a sealed "fall zone radius" letter from the antenna support manufacturer when applying for a building permit.
- 1404.16.2 A permit for a proposed new tower/support structure within two thousand five (2,500) feet of an existing communications tower shall not be issued unless the applicant certifies that the existing communications tower does not meet applicant's structural specifications and applicant's technical design requirements as reviewed by the Town, or that a co-location agreement could not be obtained.

1404.16.3 Permitted height of freestanding communication antennae support structures.

Districts	Height
A-1, R-1, R-1A, R-2, B-1	90 feet (unlighted)
R-3	90 feet (unlighted)
R-3, R-4 (Apartment developments)	199 feet (unlighted)
B-3, B-4, M-1, M-2	199 feet (Lighted) if approved By a special Exception

1405 Application Requirements. The following information is required to be submitted when requesting approval for a new tower, whether by administrative approval, or by a special exception. This information may be submitted to and reviewed by a consultant employed by the town who has expertise in antenna support structure issues, with costs to be borne by the party requesting approval.

1405.1 Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the town an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town of Unicoi thereof, including specific information about the location, height, and design of each tower.

1405.2 Site Plan. The following information is required to be shown on the site plan; the location, type and height of the proposed tower; on-site land uses and zoning, adjacent land uses and zoning (including information for adjacent municipalities) separation distances from uses as set forth in Section 1404.12 adjacent roadways, proposed means of access; setbacks from property lines; elevation drawings of the proposed tower and any other structures; topography; parking; drainage; legal description of the parent tract and leased parcel (if applicable), or tax map identification number; the setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties; the separation distance from and construction of other existing towers, owner/operator of existing tower(s), if known, method of fencing, and finished color, landscape plan showing specific landscape materials, with spacing proposals, height of vegetation at planting, and height of vegetation in three years (considered maturity).

1405.3 Documentation

- 1405.3.1 A notarized statement by the applicant as to how many antennas the tower can accommodate.
- 1405.3.2 A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- 1405.3.3 A description of the feasible locations of future towers or antennas within the Town of Unicoi and the planning region based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- 1405.3.4 Evidence to demonstrate that no existing tower structure or alternative technology can accommodate the applicants proposed antenna. This evidence may consist of any of the following:
- 1405.3.4.1 A certification that there are no existing towers or structures located within the geographic area which meet their applicant's engineering requirements.
- 1404.3.4.2 A certification that existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- 1405.3.4.3 A certification that existing towers or structures do not have sufficient structural strength to support the applicants proposed antenna and related equipment.
- 1405.3.4.4 The applicants 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 applicants proposed antenna.
- 1405.3.4.5 The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- 1405.3.4.6 The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

- 1405.3.4.7 The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- 1405.3.4.8 A certification that no other tower is located within two thousand five (2,500) feet of the proposed location.
- 1405.3.4.9 A certification from the applicant that the landowner has been advised that the land is to be used for multiple carriers equipment.
- 1405.3.4.10 The applicant for a tower or antenna support permit shall, upon the filing of said application, pay an initial application fee to the Town of Unicoi as set forth by the town from time to time.

1406 Administratively Approved Uses. The Building Official may approve the following request, provided the proposed antenna/tower meets all applicable criteria listed in this ordinance.

- 1406.1 Locating a tower or stealth-type antenna support structure outside an H-1, Historic Overlay district in B-3, Intermediate Business; B-4, Arterial Business; M-1 Manufacturing Warehouse, and M-2 High Impact Use, districts.
- 1406.2 Locating an antenna on a non-tower structure, or constructing a stealth-type antenna support structure outside an H-1 Historic Overlay District in the R-3, High Density residential, B-2, Central Business, B-3 Intermediate Business, B-4, Arterial Business, M-1 Manufacturing Warehouse, and M-2 High Impact districts.
- 1406.3. Replacing Existing Towers. Towers may be reconstructed, provided they are located within fifty (50) feet of the original tower, and the original tower is removed upon completion of the replacement tower. The replacement tower may be constructed up to fifty (50) feet taller than the original tower if additional antennas are to be added. This height change may only occur one time per communication tower without a special exception approval.

1406.4. Installing a cable microcell network through the use of multiple low powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

1407. Special Exception Permit

1407.1 A special exception permit is required if.

1407.1.1 A monopole or stealth-type antenna support structure is proposed to be located in A-1 General Agriculture, R-1, Low Density Residential, R-1A, Low Density Residential, R-2, Medium Density residential, and B-1 Neighborhood Business districts, and in non-apartment areas in R-4, High Density Residential districts. It must be shown that the location is required to prevent an effective denial of coverage. Section 1404.1 notwithstanding, the aesthetic design of such monopole or stealth-type antenna support structure shall be subject to the approval of the Unicoi Board of Zoning Appeals.

1407.1.2 A special exception permit is required if a tower or antenna support structure exceeds any of the limits set forth or is not in compliance with any of the provisions hereof is proposed.

1407.1.3 A guyed or lattice tower/antenna support structure is requested to be constructed.

1407.2 In granting a special exception permit, the Board of Zoning Appeals may impose conditions to the extent they conclude such conditions are necessary to minimize adverse effects of the proposed tower on adjoining properties.

1407.3 Factors Considered in Granting Special Use Permits for Towers. The Board of Zoning Appeals shall consider the following factors in determining whether to grant a special exception: height of the proposed tower, proximity of the tower to residential structures and residential district boundaries; nature of uses on adjacent and nearby properties; surrounding topography, surrounding tree coverage and foliage; design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; proposed ingress and egress; and availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

1408. Removal of abandoned Antennas and Towers Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Town of Unicoi notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users abandon the tower.
1409. Nonconforming Uses
- 1409.1 Expansion of Nonconforming Uses. Towers that are constructed, and antennas that are installed in accordance with the provision of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- 1409.2 Pre-existing Towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this Article.
- 1409.3 Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 1409.1 bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special exception permit and without having to meet the separation requirements. The type, height, and location of the tower on site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained, or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 1408.
1410. Public Notice. For the purpose of this ordinance, any review of a tower/antenna request by the Board of Zoning Appeals shall require written notice to all abutting property owners at least seven (7) days prior to the meeting where the item will be discussed.
1411. Private Review and Associated Fees. The Town of Unicoi reserves the right to submit for private sector review any and all requests for towers and antennas. All fees associated with private sector reviews and

recommendations shall be assessed to the individual or company submitting the tower or antenna request, and the amount of any fees shall be provided to the applicant in advance of the review.

1412. Automatic Approval. The Building Official or his designee shall either approve or deny each application for administrative approval within sixty (60) days after receiving a completed application. If the Building Official fails to respond within the said sixty (60) days the application shall be deemed to be approved.
1413. Bond. A bond shall be required to ensure the removal of any tower.
1414. Permits: Prior to tower erection, a permit must be purchased from the Town of Unicoi. Permit fees, per tower, will be Two Thousand Dollars (\$2,000) for single-user towers, Fifteen Hundred Dollars (\$1,500) for two-user towers and One Thousand Dollars (\$1,000) for three or more users towers. The fee structuring is designed to encourage multiple-user towers, thereby reducing the number of towers required in the area. Permits must be signed by all users prior to tower erection. Fees are non-refundable.
1415. The Tower Permits shall be renewed annually at a cost of \$500 per user.

Voting for this ordinance:

First Reading November 15, 1999:

	<u>Aye</u>	<u>No</u>
Ted Hopson	<u>✓</u>	___
Marsha Edwards	<u>✓</u>	___
Howard Street	<u>✓</u>	___
Johnny Lynch	<u>✓</u>	___
Mayor Hensley	<u>✓</u>	___

Second Reading December 20, 1999:

	<u>Aye</u>	<u>No</u>
Ted Hopson	<u>✓</u>	___
Marsha Edwards	<u>✓</u>	___
Howard Street	<u>✓</u>	___
Johnny Lynch	<u>✓</u>	___
Mayor Hensley	<u>✓</u>	___

Charles M. Hensley
Charles M. Hensley, Mayor

ATTEST:

Marcia V. Johnson
Marcia V. Johnson, Town Recorder