

MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT	Proposed Ordinance No. 09-60 – Amendment to LDC – Personal Communication Services	TYPE AGENDA ITEM	Advertised Public Hearing – Presentations scheduled
DATE REQUESTED	January 7, 2010	DATE SUBMITTED/REVISED	December 22, 2009
BRIEFINGS? Who?	None	CONSEQUENCES IF DEFERRED	N/A
DEPARTMENT/DIVISION	Planning Department	AUTHORIZED BY TITLE	John Osborne, Planning Director <i>JO</i>
CONTACT PERSON TELEPHONE/EXTENSION	Sharon Tarman x6863 Sarah A. Schenk, x3750	PRESENTER/TITLE TELEPHONE/EXTENSION	Sharon Tarman, Planner x6863 Sarah A. Schenk, Deputy County Attorney x3750
ADMINISTRATIVE APPROVAL			

ACTION DESIRED INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED
No action is necessary; this is the first of two required public hearings. The second public hearing is scheduled for February 4, 2010.

ENABLING/REGULATING AUTHORITY Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy
The Manatee County Comprehensive Plan, Manatee County Land Development Code.

BACKGROUND/DISCUSSION
<ul style="list-style-type: none"> • The Board of County Commissioners, on September 22, 2009, directed preparation of an amendment to the LDC to provide for siting preferences for telecommunication facilities to focus locational preferences away from residential zone districts for telecommunication towers. • Additionally, in 2005, the Florida Statutes were amended to set forth additional regulations. The LDC needs to be amended to remain consistent with Section 365.172, F.S. • Proposed Ordinance No. 09-60 amends Chapters 2, 6 and 7 of the LDC to update definitions, terminology and regulations for consistency with Florida Statutes. • The specific references to siting preferences and locational preferences are in Figure 7-A attached at the end of the proposed ordinance. • Telecommunication tower facilities will be renamed to Personal Wireless Service Facility (PWSF). • The Planning Commission unanimously recommended approval.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input checked="" type="checkbox"/>	REVIEWED Written Comments: <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Available from Attorney (Attorney's Initials: SAS)

<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input checked="" type="checkbox"/>	OTHER – CAO drafted proposed ordinance.

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
Staff Report for Proposed Ordinance No. 09-60. Copy of Proposed Ordinance No. 09-60.		n/a	
COST:	N/A	SOURCE (ACCT # & NAME):	N/A
COMMENTS:		AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	

BRADENTON HERALD

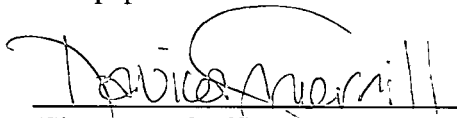
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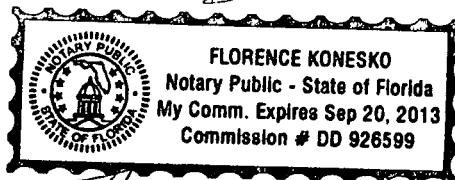
STATE OF FLORIDA
COUNTY OF MANATEE

Before the undersigned authority personally appeared Danica Sherrill, who, on oath, says that she is a Legal Advertising Representative of the Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, **NOTICE OF AMENDMENT** as published in said newspaper in the issue **12/23/2009**.

Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.


(Signature of Affiant)

Sworn to and subscribed before me this
28 Day of Dec 2009





SEAL & Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

NOTICE OF AMENDMENT TO MANATEE COUNTY LAND DEVELOPMENT CODE

NOTICE IS HEREBY GIVEN, pursuant to Section 125.66 of Florida Statutes, that the Board of County Commissioners of Manatee County, Florida, will conduct the first public hearing on proposed Ordinance No. 09-60 in the Chambers of the Board at the Manatee County Administrative Complex, 1112 Manatee Avenue West, first floor, Bradenton, Florida, during its regular meeting of **January 7, 2010 at 9:00 a.m.**, or as soon thereafter as may be heard. The Manatee County Board of County Commissioners proposes to adopt the following ordinance:

ORDINANCE NO. 09-60

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; PROVIDING FINDINGS; AMENDING CHAPTER 7 OF THE LAND DEVELOPMENT CODE, DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY; AMENDING SECTION 704.59 AND RENAMING IT PERSONAL COMMUNICATION SERVICES (PCS); AMENDING DEFINITIONS; AMENDING DEVELOPMENT STANDARDS AND ESTABLISHING SITING PREFERENCES REGARDING PERSONAL COMMUNICATION SERVICES; PROVIDING FOR CONSISTENCY WITH THE FLORIDA STATUTES; AMENDING FIGURE 6.1 COMMUNITY SERVICE USES AND SECTION 603.6, CHANGES IN APPROVED GENERAL DEVELOPMENT PLANS, TO CLARIFY THE DEVELOPMENT PROCESS REQUIRED FOR PERSONAL COMMUNICATION SERVICES; AMENDING OTHER PROVISIONS AS NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The Public is invited to speak at this hearing, subject to proper rules of conduct. The hearing may be continued from time to time to a date and time certain. The Public may also provide written comments for the Board of County Commissioners to consider.

Interested parties may appear and be heard at the meeting with respect to the proposed Ordinance. Pursuant to Section 286.0105 of Florida Statutes, if any person decides to appeal any decision made by the Board with respect to any matter to be considered at the meeting or hearing, he or she will need a record of the proceedings and for such purpose, she or he may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

The proposed Ordinance is available for public inspection at the Manatee County Planning Department, 1112 Manatee Avenue West, fourth floor, Bradenton, Florida, during regular business hours. A reasonable charge may be made for the provision of copies. The Ordinance is also available on the Manatee County website located at www.myanatee.org with a link in the Headline section at the top of the page.

Rules of procedure for this public hearing are in effect pursuant to Resolution 05-180. A copy of this Resolution is available for review or purchase from the Planning Department (see address below).

Please Send Comments To: Manatee County Planning Department
Attn: Agenda Coordinator
1112 Manatee Ave. West Suite 427
Bradenton, FL 34205

All written comments will be entered into the record.

For More Information: Copies of the proposed amendment will be available for review and copying at cost approximately ten (10) days prior to the public hearing. Information may also be obtained by calling 748-4501 x 6878, between 8:00 AM - 5:00 PM.

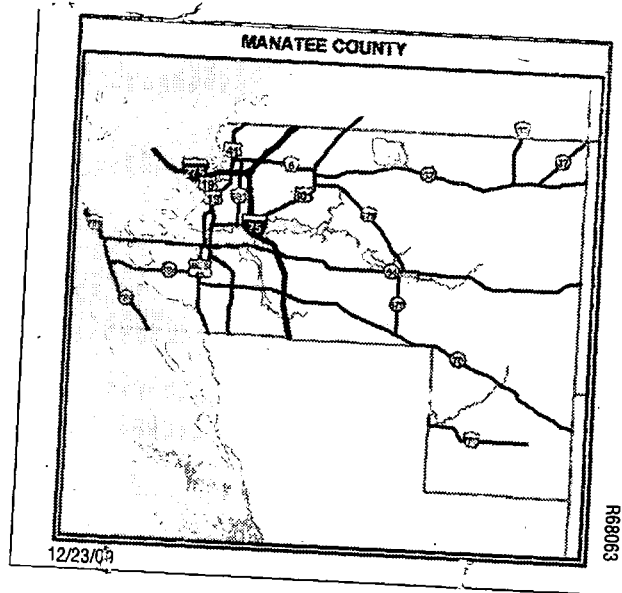
Americans With Disabilities: The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Kaycee Ellis at 742-5800; TDD ONLY 742-5802 and wait 60 seconds, FAX 745-3790.

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS

Manatee County Planning Department
Manatee County, Florida



Copy of Newspaper Advertising

Bradenton Herald

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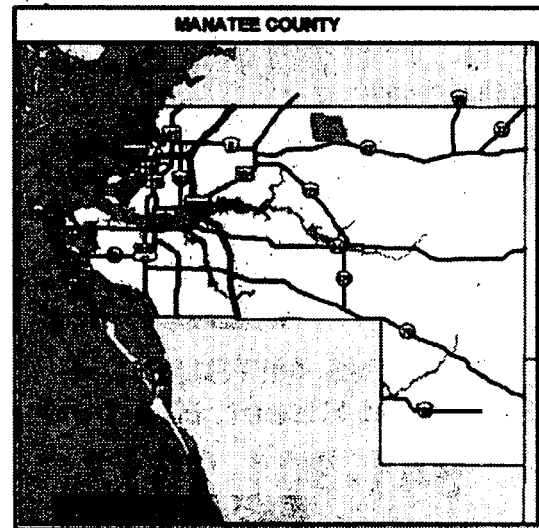
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MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS

Manatee County Planning Department
Manatee County, Florida



12/23/09

Copy of Newspaper Advertising

Sarasota Herald Tribune

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ORDINANCE NO. 09-60

An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development; providing findings; amending Chapter 7 of the Land Development Code, development standards of general applicability; amending Section 704.59 and renaming it Personal Communication Services (PCS); amending definitions; amending development standards and establishing siting preferences regarding personal communication services; providing for consistency with the Florida Statutes; amending Figure 6.1 community service uses and Section 603.6, changes in approved General Development Plans, to clarify the development process required for personal communication services; amending other provisions as necessary for internal consistency; providing for codification; providing for severability; and providing an effective date.

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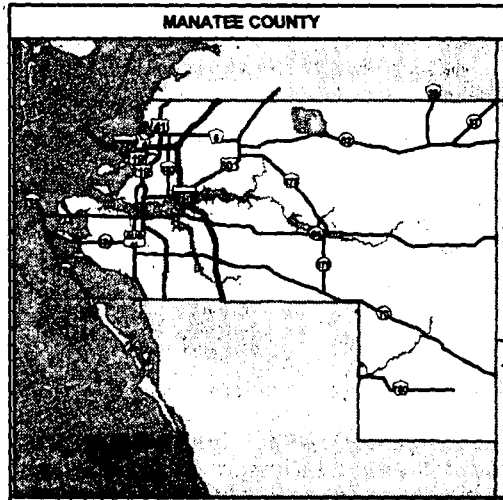
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MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
Manatee County Planning Department
Manatee County, Florida



B.O.C.C. 01/07/09

ORDINANCE 09-60

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P.C.: 12/10/09

B.O.C.C.: 01/07/10 (1st Hearing)
02/04/10 (2nd Hearing)

RECOMMENDED MOTION

No action necessary

PLANNING COMMISSION ACTION:

On December 10, 2009, by a vote of 7 – 0, the Planning Commission recommended approval.

Background/Discussion:

- The Board of County Commissioners, on September 22, 2009, directed preparation of an amendment to the LDC to provide for siting preferences for telecommunication facilities to focus locational preferences away from residential zone districts for telecommunication towers.
- Additionally, in 2005, the Florida Statutes were amended to set forth additional regulations. The LDC needs to be amended to remain consistent with Section 365.172, F.S.
- Proposed Ordinance No. 09-60 amends Chapters 2, 6 and 7 of the LDC to update definitions, terminology and regulations for consistency with Florida Statutes.
- The specific references to siting preferences and locational preferences are in Figure 7-A attached at the end of the proposed ordinance. LDC Figure 6-1 limits Personal Communication Services in residential zoned districts thru Conditional Use Criteria and the Special Permit process. Staff is able to review the impacts, both immediate and future, thru the development review process and determine if the request is appropriate or not. If deemed appropriate, staff can recommend stipulations to ensure the project is compatible with the surrounding uses.
- The specific changes proposed to the Land Development Code are located in ORD-09-60, attached.
- Telecommunication tower facilities will be renamed to Personal Wireless Service Facility (PWSF).
- The proposed amendment is consistent with the Manatee County Comprehensive Plan.
- Staff recommends approval.

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BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. Chapter 7 of the Manatee County Land Development Code (the "Code") sets forth the procedures for consideration of various applications for development approval and permitting, including Personal Communication Services (f/k/a telecommunication facilities).

2. It is in the interest of the public health, safety and welfare to adopt the amendments to Chapter 7 of the Code, in order to establish a process for review and consideration of Personal Communication Services consistent with recent amendments to Section 365.172, *Florida Statutes*.

3. It is the intent of the Board of County Commissioners to locate Personal Communication Services to minimize adverse visual impacts and the effects of telecommunication towers through the utilization of careful design, landscaping, screening, innovative camouflage techniques and siting preference standards.

4. The Manatee County Planning Commission, held a duly noticed public hearing, reviewed the amendments set forth in this Ordinance, found them to be consistent with the Comprehensive Plan, and recommended their adoption by the Board, on December 10, 2009.

5. The Board of County Commissioners held two duly noticed public hearings on January 7, 2010 and February 4, 2010 to consider adoption of the proposed ordinance and received public comments thereon.

Section 3. Amendment of Chapter 2, Definitions and Rules of Construction, Land Development Code. Chapter 2 of the Code is hereby amended in Section 201, Definitions, to either repeal or amend various definitions regarding telecommunication towers and adding a new definition regarding Personal Communication Services (PCS), a copy attached hereto labeled Exhibit "A" to this ordinance and made a part hereof by reference.

Section 4. Amendment of Chapter 7, Development Standards of General Applicability. Chapter 7 of the Code is hereby amended in Section 704.59, Telecommunication Facilities; to repeal certain provisions and to amend other sections in their entirety all regarding the regulation of Personal Communication Services (f/k/a telecommunication facilities). Said new regulations shall be contained in an amended Section 704.59, a copy of which is attached hereto labeled Exhibit "B" to this ordinance and made a part hereof by reference.

Section 5. Chapter 6, Zoning Districts. Figure 6-1, Community Service Uses is hereby amended to delete all references to antenna, camouflaged tower, maximum 150' in height, guyed tower, lattice tower, 400' maximum height, maximum 150' in PDR, monopole telecommunications tower with 3 or more providers, 200' maximum height, monopole tower greater than 150', 200' maximum height, monopole tower less than 150', radio, TV, communications, microwave facilities. All the above described community service uses are addressed in Figure 7-A adopted by this ordinance into Section 704.59, LDC. Except as expressly amended hereby, Figure 6-1, Community Service Uses shall remain in effect and as amended a copy of Figure 6-1 is attached hereto as Exhibit C and made a part hereof by reference..

Section 6. Chapter 6, Zoning Districts. Chapter 6 of the Code is hereby amended in Section 603.6, Changes in Approved General Development Plan to amend Section 603.6.2.1 regarding the changes to approved general development plans that may be approved administratively. Said amended section shall provide as follows:

"603.6. *Changes in Approved General Development Plan.*

* * *

603.6.2. *Administrative Changes.*

* * *

603.6.2.1. The following specific changes may be approved administratively:

* * *

6. An increase in structure height less than eight (8) feet, or fifteen (15) percent of the approved height, whichever is less, provided there is no increase in number of stories. Provided, however, the Planning Director may administratively approve modifications to General Development Plans depicting proposed Personal Wireless Service Facilities (PWSF) in Preferred Zone Districts in accordance with Section 704.59 and Figure 7-A of this Code. (Additional text indicated by underlining, deletions by ~~strikeout~~.)

Section 7. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Sections 3, 4 and 5 of this Ordinance into the Land Development Code.

Section 8. Applicability. The amendments set forth in this Ordinance shall apply to all applications; for approvals of Personal Wireless Service Facilities filed with the County after the effective date hereof. Applications for approvals for Personal Wireless Service Facilities filed with the County and deemed complete by the County prior to the effective date of this Ordinance shall not be subject to the regulations contained in this Ordinance.

Section 9. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 10. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this _____ day of _____.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Donna G. Hayes, Chairman

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: _____
Deputy Clerk

ORDINANCE NO. 09-60
EXHIBIT "A"
PERSONAL COMMUNICATION SERVICES (PCA)
AMENDED DEFINITIONS

"Sec. 201. *Definitions and Rules of Construction* is hereby amended to set forth definitions unique to Personal Communication Services as regulated in Section 704.59 of this Code. Additions to text are indicated by underlining, deletions by ~~strikeout~~.

Alternative Support Structure shall mean clock towers, steeples, light poles, buildings, or similar structures that may support telecommunication facilities.

Antenna shall mean any exterior apparatus designed for telecommunication and any other electronic communicating devices or services through the sending or receiving of electromagnetic waves. This term includes satellite dish antennas, utility pole mounted antennas, and antenna arrays.

Building Permit Review (BPR) is a review for compliance with building construction standards adopted by the County under Chapter 533, Florida Statutes, and does not include a review for compliance with Land Development Regulations.

Camouflaged Tower shall mean any telecommunication tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. Towers which have been painted shall not be considered "camouflaged."

Cellular means a mobile wireless communication service operating in a spectrum approved by the FCC for such uses.

~~*Co-location* shall mean the ability to use or the use of a common telecommunication facility by more than one (1) telecommunication service provider, or more than one (1) type of telecommunications technology by one (1) provider.~~

Collocation means the placement of a second or subsequent wireless antenna on an existing telecommunications tower or existing structure. The term includes the ground, platform or roof installation of equipment enclosures, cabinets or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennae.

Existing Structure means a structure that exists at the time an application for permission to place antennae on a structure is filed with the County. The term includes any structure that can structurally support the attachment of antennae in compliance with applicable codes.

Falldown Radius shall mean the designated area of a telecommunication facility surrounding a telecommunication tower, which, in the event of a structural failure of all or part of the telecommunications tower, would likely contain the failed or collapsed

telecommunication tower. This area may also be called the collapse zone. The falldown radius size shall equal one hundred twenty five (125) percent of the tower height, unless an engineering certification shows that in the event of collapse, the telecommunication tower is designed to collapse within a smaller area.

Federal Communications Commission (FCC) means an independent federal agency charged with licensing and regulating wireless communications at the national level.

Guyed Tower shall mean a telecommunication tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

Height, Telecommunication Tower shall mean the distance measured from base (top of foundation) to the highest point of the tower. This measurement excludes any attached antennas, and lighting. The height of the base exceeding four (4) feet above grade shall be included in height of tower.

Land Development Regulations. An ordinance enacted by the County for the regulation of any aspect of development, including an ordinance governing zoning, subdivisions, landscaping, tree protection, or signs, the County's Comprehensive Plan or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with Chapter 553, Florida Statutes.

Lattice Tower shall mean a telecommunication tower that consists of vertical and horizontal supports and crossed metal braces, which is usually triangular or square in a cross section.

Monopole Tower shall mean a telecommunication tower of a single pole design.

Non-Preferred Zone Districts as used in Section 704.59 of this Code, the zone districts listed as Non-Preferred zone districts as described in Figure 7-A.

Personal Wireless Service Facility (PWSF) means a facility for the provision of personal wireless services as defined in Section 704 of the Telecommunications Act of 1996. A PWSF is any facility for the transmission and/or reception of personal wireless services, which may consist of an antennae array, transmission cables, equipment shelter or building, access road, mount and a guy system.

Platform shall mean a support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

Preferred Zone Districts as used in Section 704.59 of this Code, the zone districts preferred as siting preferences for PWSF as described in Figure 7-A.

Radio Frequency (RF) Engineer means a licensed or otherwise qualified electrical or microwave engineer specializing in the study of radio frequencies and/or the design of

radio systems.

Site means that portion of a subject property where a PWSF is to be placed and which contains all associated mounts, equipment buildings, and shelters, security fencing, landscaping, access and utility easements and any guy wires and anchors. An acceptable property may have several potential sites within it.

Tall Tower shall mean any telecommunication tower with an overall height of five hundred (500) feet or more above grade, which contains one (1) or more antennas for telecommunication services.

Tall Tower Cluster shall mean a grouping of two (2) or more tall towers in a specified geographical location with established dimensions of area and height, where tall towers with a common impact on aviation may be grouped.

Telecommunication Equipment Building shall mean the telecommunication support facility structure located on a tower site, which houses the electronic receiving and relay equipment.

~~*Telecommunications Facility* shall mean a facility, site, or location that contains one (1) or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals.~~

~~*Telecommunication Support Facility* shall mean the telecommunication support equipment and cabinets associated with a telecommunication facility.~~

Telecommunication Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more wireless provider's antennaes, including camouflaged towers, lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, and common-carrier towers. The term shall exclude alternative support structures.

ORDINANCE NO. 09-60
EXHIBIT "B"
PERSONAL COMMUNICATION SERVICES (PCS)

Section 704. Conditional Use Criteria.

* * *

Sec. 704.59. ~~Telecommunications Facilities~~ Personal Wireless Service Facilities

Purpose and Intent:

The purpose and intent of this section is to provide development standards relating to specific types of Personal Wireless Service Facilities (PWSF) ~~telecommunication facilities~~. The requirements established herein are deemed necessary by Manatee County to protect and enhance the community's environmental, economic, and aesthetic quality, thereby contributing to the overall objective of promoting the health, safety, and general welfare.

More specifically, it is the purpose of this section to:

- (1) Encourage the use of alternative support structures, collocation of new antennas on existing telecommunication towers and existing structures, camouflaged towers, monopoles, and construction of towers with the ability to locate three (3) or more providers, respectively.
- (2) Consider the design of the PWSF ~~telecommunication facility~~, with particular reference to design characteristics that have the effect of ~~reducing or eliminating~~ minimizing the adverse visual impact of the mounts of the PWSF and associated equipment ~~obtrusiveness~~.
- (3) ~~Consider the nature of existing uses and e~~Encourage the use of sites which are already developed with non-residential, commercial and industrial uses, and which may already be currently visually impacted by tall structures, through the use of siting and locational preferences ~~and which are currently visually impacted by tall structures~~.
- (4) To promote compatibility of PWSF with surrounding land uses and protect the attractiveness, health, safety and general welfare of the community ~~Consider the effect of establishment of new telecommunication facilities on environmental resources~~.
- (5) Discourage new telecommunication towers in the non-preferred zone districts described in Figure 7-A of this Section, inclusive of all residential zone districts, through the use of siting and locational preferences to further the preservation of community aesthetics, and the compatibility of land uses in residential zone districts.

(6) Enhance the ability of the providers of Personal Wireless Services to provide such services to the community quickly, effectively and efficiently.

(7) Expedite the review process for those applications choosing the least intrusive alternative of deploying PWSFs.

704.59.1. *Applicability:* ~~This section shall apply to all PWSFtelecommunications facilities which are a principal use. All such towers shall also comply with Sections 725 and 737. Accessory use antennas shall comply with Section 702.5.2 and Section 703 instead of this section.~~

An existing principal use or structure shall not preclude the future installation of a principal use PWSFtelecommunication facility subject to compliance with this Code.

704.59.2. *Approval Types:* ~~Telecommunication facilities~~PWSF shall be approved by the type of permit required by ~~Figure 6-4~~ the Matrix of Siting Locational Preferences in Figure 7-A. The Planning Director is authorized to allow a Monopole Telecommunications Tower with three (3) or more providers that normally requires approval of a Special Permit in the PR, NC or GC zoning districts to obtain approval by Administrative Permit upon a finding of minimal visual and aesthetic impacts on surrounding properties.

704.59.3. *General Standards.*

704.59.3.1(A). *Permitted locations:* All PWSFs~~Telecommunication towers~~ shall be located landward of the five (5) foot contour line, and not within the Historic Preservation Overlay Districts, Historic Vista Protection Areas, Scenic Water View Protection Areas, and Velocity Zones.

For the purposes of this section the Scenic Water Protection Area shall be the following areas, provided they are not in an Extraction or industrial zoning district.

- Two thousand (2,000) feet from the Ordinary High Water Line of the County's bays.
- Two thousand (2,000) feet in width along both sides of the Manatee River.

~~No new telecommunication tower shall be permitted unless the applicant submits a notarized affidavit that demonstrates compelling reasons (including substantial cost difference) why existing telecommunication towers or alternative support structures within one (1) mile of the proposed tower cannot accommodate the applicant's proposed antenna. Applicant may substitute their search ring for the one (1) mile radius by providing a notarized statement or certification by a Radio Frequency Engineer which identifies the location and dimensions of the search ring, as well as a propagation map which shows all surrounding adjacent cell sites proposed or operated by the applicant.~~

704.59.3.1(B). Availability of Other PWSF Providers: The approving authority, whether

it be the Planning Director, Planning Commission or Board of County Commissioners shall not consider the availability of service from other PWSF providers to the area under consideration for approval of a proposed PWSF.

704.59.3.2. *Collocation of PWSFs Telecommunication Facilities.*

A. Solely to the extent required by Section 365.172, Florida Statutes, the County shall grant or deny an application for a permit for the collocation of a PWSF on property, buildings, or structures within 45 business days after the date the application is initially submitted and deemed by the County to be a complete application in accordance with the requirements of this section. Such time frame shall begin to run when the Planning Department deems the application to be complete.

B. Antennas collocated with an existing PWSF of a design and configuration consistent with all applicable regulations, restrictions or conditions, if any applies to the initial antenna array placed on the PWSF tower shall be permitted. Any regulation, restriction or condition that limits the number of collocations or requires a review process inconsistent with this section shall not apply. As part of such collocations, new accessory equipment shall be allowed within the existing compound.

The height of an existing telecommunication tower may be increased one time during the life of the tower by a maximum of forty (40) feet in order to accommodate collocation.

A telecommunication tower which is being relocated or reconstructed to accommodate collocation may be relocated within fifty (50) feet of its existing location with Administrative Permit approval, provided that:

- The separation from residential uses and zoning districts shall not be diminished unless the required separation is maintained;
- Separation from other uses and zoning districts shall be maximized to the greatest extent possible; and
- The requirements for license described in Section 704.59.3.12.6, landscaping, and falldown radius are met.

If the above-referenced residential separation is not maintained, Special Permit review of the decreased residential separation shall be required. Moving the tower beyond fifty (50) feet requires meeting all other ordinance provisions.

704.59.3.3. *Separation*

704.59.3.3.1. *Separation from Off-Site Uses.* All Telecommunications Towers shall be located in accordance with the following standards:

Adjacent Off-Site Uses or Districts	Setback from lot line of parent parcel
--	---

All Residential Uses and Residential Districts	200 feet or 200% of the height of the tower whichever is greater
--	--

The Planning Director may reduce this setback to one hundred (100) percent of the tower height when the applicant demonstrates to the Director's satisfaction that service cannot be provided without this reduction. Conditions may be added to address impacts.

704.59.3.3.2. *Separation from On-Site Uses* - A telecommunications tower shall be located a minimum distance equal to the falldown radius from any on-site residential use.

704.59.3.3.3. *Separation Between Telecommunications Towers (by Tower Type)* Either the Planning Director (for Administrative Permit), or the Hearing Officer (for Special Permits), may reduce the separation requirements set forth in 704.59.3.3.3, when the applicant demonstrates to either the Director or Hearing Officer's satisfaction that service cannot be provided without the modification. The following criteria shall be evaluated:

1. The reduction is limited to a fifty (50) percent reduction of the separation requirement.
2. The proposed location would not create a greater aesthetic impact on surrounding properties.
3. The reduction is not contrary to the public interest.

Proposed Tower Types*	Minimum distance from Monopole, Lattice, or Guyed
Lattice	2,500 ft.
Guyed	2,500 ft.
Monopole-85 ft. in height or greater	1,500 ft

* Camouflage towers are exempt from the separation between towers requirement listed above.

The requirement for separation between towers shall not apply to or be measured from towers erected by a Local Government, State, or Federal agency.

Towers located in the PDI, PDUI, HM, LM and EX zoning districts are exempt from these separation requirements.

This separation requirement shall not apply to towers proposed within one hundred (100) feet of an approved tower. This distance shall be measured from the outside edge of the tower structure, excluding guy wires for guyed towers. A maximum of three (3)

towers may be clustered in an area under this provision.

704.59.3.3.4. *Separation from Arterial Roadways.* All new towers shall be set back from classified arterial roadways a distance equal to one hundred twenty-five (125) percent of the tower height, unless an engineering certification shows that in the event of collapse, the telecommunication tower is designed to collapse within a smaller area.

704.59.3.3.5. *Separation From Interstates.* All new guyed, monopole and camouflaged towers shall be set back from Interstate rights-of-way a minimum of one hundred twenty-five (125) percent of the tower height, lattice towers shall be setback a minimum of five hundred (500) feet from Interstate rights-of-way.

704.59.3.3.6. *Guy Wires Separation.* All guy wires shall be at least fifty (50) feet from all property lines.

704.59.3.4. *Site Development.* All new telecommunication towers sites shall be of a minimum size to provide collocation opportunities, and contain all required site improvements (i.e., landscaping, equipment cabinets, etc.). The developer or owner shall own or control by lease the land in every direction from the outer edge of the base of the telecommunications tower a distance equal to the tower height or falldown radius. The above area may be referred to as the leased parcel. The entire falldown radius shall either be within a recorded easement, or contained within the leased parcel, but in either case shall be contained entirely within the parent parcel.

Telecommunication sites shall not be used for the outside storage of materials or equipment, or for the repair or servicing of vehicles or equipment.

All sites shall provide adequate ingress and egress for all emergency vehicles.

Exemptions.

Due to the nature of these facilities, all unmanned ~~PWSFs~~ Telecommunication Facilities may be allowed modifications of the requirements for paved driveways, off-street loading, off-street lighting, off-street parking, solid waste collection, potable water, and sewage collection requirements, as determined appropriate by the Planning Director.

704.59.3.5. *Landscaping and Screening.* The visual impacts of ~~PWSF~~ telecommunication towers and facilities shall be mitigated from nearby viewers through landscaping or other screening materials at the base of the tower and ancillary structures. The Director may modify the following landscaping requirements in industrial or agricultural zone districts.

A ten (10) foot wide landscape buffer shall be required around the perimeter of a telecommunication tower lease parcel and include the following features:

- Landscaping shall be installed on the outside of fences;
- ~~A row of canopy trees, a maximum of forty (40) feet on center shall be planted in the buffer;~~
- A row of understory trees, a maximum of ten (10) feet on center shall be planted in the buffer;
- A continuous hedge shall be planted on the outside of the perimeter fence and tree line referenced above;
- Existing vegetation shall be preserved to the maximum extent possible. Where unique natural features provide vegetative screening which meets or exceeds the standards provided above, the Planning Director may approve an alternative landscape and screening plan upon determining that such plan meets the intent of these standards and meets or exceeds a plan in strict compliance.

704.59.3.6. *Appearance.* All ~~PWSFs~~ Telecommunication Facilities shall be located, designed, and screened, to the greatest extent possible, using materials, colors, textures, screening, and landscaping that will blend the facilities with the existing natural or built surroundings, as well as any existing supporting structures, to reduce visual impacts.

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

Each application shall demonstrate that, to the greatest practical extent, the proposed facility is designed to limit the visual impact on surrounding land uses and public views.

704.59.3.7. *Lighting.* Telecommunication towers or antennas shall not be artificially lighted unless required by the FAA or other applicable regulatory authority. If lighting is required, the lighting design which would cause the least disturbance to the surrounding properties shall be chosen.

The illumination of adjacent premises from security lighting of any associated equipment shelters or cabinets shall not exceed a value of one (1) foot candle measured in the horizontal or vertical plane at a point five feet inside any adjacent residential property. Lighting shall also comply with Section 723.

704.59.3.8. *Antennas.*

704.59.3.8.1. The maximum height of an antenna platform located on a roof top shall be ten (10) feet above the roof. All platforms shall be screened by parapet or other

approved methods from major collector or higher roads, recreational areas, and adjacent residential district or uses.

704.59.3.8.2. An antenna may extend twenty (20) feet above the platform, telecommunication tower, roof, or alternative support structure that supports the antenna.

704.59.3.8.3. A radio frequency emissions test report showing compliance with the adopted Federal Communication Commission (FCC) standard shall be submitted with each rooftop antenna. The report shall address the amount, location, and effect of radio frequency on the rooftop and the occupancy below the rooftop.

704.59.3.8.4. Telecommunication facilities located on roofs shall not occupy more than fifty (50) percent of the roof surface of a building.

704.59.3.8.5. Antenna and antenna platforms may project beyond the building exterior walls upon approval of the Planning Director and Building Director.

| 704.59.3.8.6. The roof area where a PWSF~~telecommunication~~ facility is located shall be secured from the remaining roof area to prevent unauthorized access.

704.59.3.8.7. A report prepared by an Engineer indicating the tower or structure's suitability to accept an antenna shall be included with any application.

| 704.59.3.8.8. PWSF~~Telecommunication~~ Facilities shall not interfere with or obstruct existing or proposed public safety and fire protection telecommunication facilities. Any interference and or obstruction shall be corrected by the applicant at no cost to the County.

704.59.3.8.9. *Utility pole mounted antennas.* The maximum height above the pole for a utility pole mounted antenna shall be twenty (20) feet.

Horizontal separation between utility pole mounted antennas shall be equal or compatible to the location and spacing of adjacent utility poles.

To the greatest practical extent, utility pole mounted antennas shall be located where they are concealed from the public view by other objects such as trees or buildings.

When it is necessary to locate a utility pole mounted antenna in public view, to the greatest practical extent, it shall be designed to limit visual impact on surrounding land uses.

Equipment cabinets shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes. Equipment cabinets associated with utility pole mounted antennas which are outside of the rights-of-way shall meet setbacks for the zoning district where they are located.

To the greatest practical extent, equipment shelters located outside of the rights-of-way shall be concealed from public view or shall be architecturally designed or screened to be compatible and blend in with surrounding land uses or buildings.

704.59.3.9. *Construction Standards:*

704.59.3.9.1. All telecommunications towers shall provide a falldown radius within the parent parcel.

704.59.3.9.2. Telecommunication support facilities shall be the only structure, building, or use allowed within the falldown radius.

704.59.3.9.3. A radio frequency radiation emission test report, to demonstrate compliance with FCC adopted standards, shall be required for all rooftop antennas and other antennas which are less than thirty (30) feet above grade.

704.59.3.9.4. Telecommunication towers shall be separated from overhead power lines, with a voltage exceeding seven hundred and fifty (750) volts, a distance equal to their height.

704.59.3.9.5. Telecommunication support facilities may not exceed twenty (20) feet in height.

704.59.3.10. [~~Reserved~~]Application Processing

1. Timing.

a. New PWSF. Solely to the extent required by § 365.172, F.S., the County shall grant or deny an application for a permit for the siting of a new PWSF or antenna on property, buildings, or structures within 90 business days after the date the application is initially submitted and deemed by the County to be a complete application in accordance with the requirements of this section.

b. Completeness Determination. Solely to the extent required by § 365.172, F.S., the Planning Director shall notify the permit applicant within 20 business days after the date the application is submitted as to whether the application is for administrative purposes only, properly submitted, and completed in accordance with the requirements of this section. Such notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed. A determination by the Planning Director that the application is complete shall not be deemed as an approval of the application.

c. Automatic Approval. Solely to the extent required by § 365.172, F.S., if the County fails to grant or deny a complete application for a

permit within the time frames set forth in Sections 704.59.3.10(a) and 704.59.3.10(b) of this Code, the application for the permit shall be deemed automatically approved and the applicant may proceed with placement of the applied-for facilities without interference or penalty. The time frames set forth in Section 704.59.3.10 of this Code and the automatic approval provisions of this subparagraph, shall be extended in the event the application for the permit has not been granted or denied because the application is for an approval requiring action by a governing body or an appeal of an administrative determination is made to the Board of County Commissioners and such action has not taken place within the time frames set forth in Section 704.59.3.10 of this Code. Under such circumstances, the Board of County Commissioners must act to either grant or deny the application for the permit at its next regularly scheduled meeting, or, otherwise, the automatic approval provisions of this paragraph shall apply.

d. *Time Frame Waiver.* To be effective, a waiver of the time frames set forth in Section 704.59.3.10 of this Code must be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an entity seeking a permit, except that with respect to a specific permit, a one-time waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.

704.59.3.11. *Security.*

704.59.3.11.1. ~~PWSF~~Telecommunication facilities shall be secured from access by the public and other unauthorized persons.

704.59.3.11.2. Towers shall be enclosed by a continuous six (6) foot high security fence. Barbed wire may be used on security fences in any zoning district, provided such barbed wire is limited to three (3) strands and is a minimum of six (6) feet above the ground. The gates shall be secured with a locking mechanism to prevent unauthorized access. A rapid access key box or other local fire district approved entry system shall be utilized.

704.59.3.11.3. Towers shall provide anti-climbing devices.

704.59.3.11.4. Alternative support structures shall be designed to prevent unauthorized access.

704.59.3.11.5. ~~PWSF~~Telecommunication facilities located on building roofs shall be secured from the remaining roof area to prevent unauthorized access.

704.59.3.11.6. *Signage.* No trespassing signs and in case of emergency contact signs

shall be posted on each telecommunication facility adjacent to the entrance. No other signage is permitted, except as required for public safety purposes, as may be required by a government agency.

704.59.3.12. *Application requirements.* In addition to the requirements of Section 508, an application for a telecommunication facility shall contain:

704.59.3.12.1. Any reports, explanations, certifications, or other documentation required by Section 704.59.

704.59.3.12.2. Copies of approvals from the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA), including any Aeronautical Study Determination, or other findings.

704.59.3.12.3. The application shall include a tabular and map inventory of all the applicant's existing telecommunications facilities that are located within Manatee County, including the incorporated municipalities.

704.59.3.12.4. This inventory shall specify the location, height, type, and design of each existing telecommunication facility, the ability of the tower or antenna structure to accommodate additional co-location antennas, and where applicable, the height of the alternative support structures.

704.59.3.12.5. Coordinates of the facility shall be supplied in the Global Positioning System format or other format approved by the County;

704.59.3.12.6. A written instrument executed by the PWSF telecommunication facility owner or operator and, in the case of a leased site, a written instrument executed by the lessor and lessee, binding their successors and assigns, in a form suitable for recording in the official records, granting Manatee County and its agents and employees a license to enter the real property on which the site is located and remove any abandoned telecommunication tower at the owner or operator's expense, subject to proper notice and a finding by the Code Enforcement Board that the tower has been abandoned.

704.59.3.12.7. In the case of a leased site, a lease agreement or binding lease memorandum which shows:

- (1) on its face that it does not preclude the site owner from entering into leases on the site with other provider(s); and
- (2) the legal description and amount of property leased.

704.59.3.12.8. Copies of any Environmental Assessment (EA) reports, on Form 600 or Form 854 submitted to the Federal Communication Commission.

704.59.3.12.9. Copies of Finding of No Significant Impacts (FONSI) statement

from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS).

704.59.3.12.10. A statement that the PWSF facility complies with the limits of radio frequency emissions standard set by the FCC; the statement shall list the particular FCC emission limits (MPE) and the tested or design limit for the proposed PWSF telecommunication facility.

704.59.3.12.11. If lighting is required, a plan showing the lighting design.

704.59.3.12.12. If the PWSF telecommunication facility is located in an easement, the owner of the easement and underlying property owner must authorize the application.

704.59.3.12.13. A certification prepared by an Engineer which provides the minimum falldown radius for the telecommunication tower.

704.59.3.12.14. A statement by the applicant indicating that government-owned property is or is not available within the search ring for the PWSF. If government-owned or other property within a Preferred Zone District in Figure 7-A of this section is available, the statement should include a full explanation if the applicant does not plan to locate on such property. A letter signed by the appropriate official of the governmental entity owning the property stating the unavailability of the property for a PWSF is one method that could be used to satisfy this requirement. Alternatively, a notarized affidavit shall be submitted to the County that establishes that the location of the PWSF on government owned property in a Preferred Zone District would have the effect of preventing the applicant from providing wireless services to the intended coverage area.

704.59.3.12.15. Each application shall identify the zone district and location preference that the proposed PWSF is meeting. (Reference Figure 7-A of this section). If the proposed PWSF is not in a Preferred Zone identified in Figure 7-A of this section, the applicant shall provide a map of the geographical area and a written discussion of sites within Preferred Zones that could potentially serve the same area as the proposed site and describe why each preferred site is not available for siting the PWSF. The written explanation shall address whether the proposed site:

1. Meets the applicant's engineering requirements for the proposed PWSF;
2. Is of sufficient height to meet the applicant's engineering requirements;
3. Has sufficient strength to support the applicant's proposed antenna;
4. Has sufficient vertical space to accommodate the applicant's antenna; and
5. Is available for lease under a reasonable leasing agreement, as

determined by industry standards for the geographic area.

The applicant shall submit a notarized statement that states whether the location of the PWSF on property that is in a Preferred Zone District described in Figure 7-A would have the effect of preventing the applicant from providing wireless services to the intended coverage area. The applicant shall provide a statement as to whether the proposed site is preferable due to aesthetic and community character compatibility as compared to sites available in the Preferred Zone Districts or Preferred Locations in Figure 7-A.

704.59.3.12.16. A statement by the applicant as to whether construction of the telecommunication tower will accommodate collocation of additional antennas for future PWSF providers, including the collocation capacity.

704.59.3.12.17. A statement by the applicant demonstrating to the satisfaction of the County that no existing telecommunications tower, alternative support structure, building or other structure within the applicant's geographic search areas is available for siting the proposed PWSF as follows:

1. Meets the applicant's engineering requirements for the proposed PWSF;
2. Is of sufficient height to meet the applicant's engineering requirements;
3. Has sufficient strength to support the applicant's proposed antenna;
4. Has sufficient vertical space to accommodate the applicant's antenna; and
5. Is available for lease under a reasonable leasing agreement, as determined by industry standards for the geographic area.

704.59.3.12.18. In the event the applicant is requesting the siting of a PWSF in a residential zone district as a non-preferred zone district in Figure 7-A of this Code, the applicant shall submit with its application a statement with facts demonstrating that the applicant cannot reasonably provide telecommunication service to the residential area or zone from outside the residential area or zone district.

704.59.3.12.19. Visual Aids (digital format) of the proposed PWSF site showing predevelopment (existing) and post-development conditions. The visual aids shall show the closest public views of the PWSF from a minimum of four locations. The predevelopment visual aids shall be used to show post-development views of the PWSF (telecommunication tower, antennas, associate support facilities, landscaping and security fencing). Post-development views shall include views of the PWSF as it would appear immediately after

construction and may include views of 12 and 24 months after construction. The visual aids shall show the relationship and proximity to neighboring residential zone districts and uses and how the PWSF will appear from public viewpoints. The visual aids may be accompanied by a corresponding written visual impact analysis prepared by the applicant. These requirements for visual aids are minimums and the County reserves the right to require additional visual aids as determined on a case-by-case basis.

704.59.3.12.20. Experts

- A. Where due to the complexity of the methodology or analysis required to review an application for a PWSF, the County may require a technical review by a third-party expert, the costs of which shall be borne by the applicant, which sum shall be in addition to PWSF development review fees established by resolution of the Board. Applicants for a PWSF shall submit a deposit as determined by fee resolution towards the cost of such technical review upon written notification from the County that a technical review is required and shall remit any outstanding balance to the County for such review prior to issuance to a building permit for the PWSF.

- B. The expert review may address any or all of the following:
 - 1. The accuracy and completeness of submission;
 - 2. Applicability of analysis techniques and methodologies;
 - 3. The validity of conclusions reached;
 - 4. Whether the proposed PWSF complies with the applicable standards set forth in this section; and
 - 5. Other matters deemed by the County to be relevant to determining whether a proposed PWSF complies with the provisions of this section.

- C. Based on the results of the expert review, the County may require additional information or submittals from the applicant or impose conditions of approval.

704.59.3.13. Annual Report.

704.59.3.13.1. The owner or operator of a new or existing PWSFtelecommunication facility shall file annually on or before January 31 of each year, with the Planning Department a PWSFTelecommunications Facility Annual Report.

704.59.3.13.2. The ~~PWSF Telecommunications Facility~~ Annual Report shall include the owner and operators names, address, phone numbers, contact person(s), type of antenna, applicable FCC Licenses numbers, applicable FAA Licenses, type of support structure (tower, alternative support), County approval numbers. Additionally reports submitted by Tower owner and operators shall also supply the number of co-locations positions designed, occupied, or vacant. The submission on a county form designed for such use shall be evidence of compliance.

704.59.3.13.3. Structural certification for new and existing telecommunication towers shall be submitted with the ~~PWSF Telecommunications Facility~~ Annual Report on the tenth (10th) anniversary of the Building Permit issuance for the tower or the next ~~PWSF Telecommunication Facility~~ Annual Report, whichever is later. The structural certification shall state general structural stability of the structure and the ability to add additional antennas to the tower. The ~~PWSF Telecommunications Facility~~ Annual Report shall include a structural certification every five (5) years thereafter.

704.59.3.4. *Abandonment.* Any telecommunication tower which has no operational antenna located thereon for a period of six (6) months will be deemed to be abandoned, and therefore shall constitute a violation of this Code. The owner or operator of the abandoned telecommunication facilities shall be given six (6) months after being provided with a notice of violation to either reactivate or dismantle and remove the telecommunication facilities. In the event of the owner or operator's failure to comply with the County's request for removal, the matter may be referred to the Manatee County Code Enforcement Board for enforcement. Nothing herein shall be construed to limit the County's right to pursue any other legal remedy.

FIGURE 6-1

COMMUNITY SERVICE USES

COMMUNITY SERVICE	CON	A	A-1	RSF	RSM	RDD	RMF	PR	NC	GC	HC	CR	LM	HM	EX	PDR	PDO	PDC	PDR	PDI	PDPI	PDW	PDMU	PDR	PDMH	PDGC	VIL	PDA	PDEZ	
Antenna	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Camouflaged Tower, Maximum 150 Feet in Height	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Cultural Facilities	X	AP	AP	SP	SP	SP	SP	AP	AP	AP	AP	X	AP	AP	X	P	P	P	P	P	P	P	P	X	X	X	SP	P	P	
Correctional Facilities:																														
Community	X	SP	X	X	X	X	X	X	X	X	SP	X	SP	SP	X	X	X	X	X	X	P	X	P	X	X	X	X	X		
Major	X	SP	X	X	X	X	X	X	X	X	X	X	SP	SP	X	X	X	X	X	X	P	X	P	X	X	X	X	X	X	X
Emergency Shelters	X	AP/S	AP/S	AP/SP	AP/S	AP/S	AP/S	AP/S	AP/S	AP/S	AP/S	X	X	X	X	P*	P*	P*	X	X	X	P*	P	X	P	X	AP	AP	X	
Emergency Shelter Home	X	P	P	P	P	P	P	AP/S	AP/S	AP/S	AP/S	X	X	X	X	P*	P*	P*	X	X	X	P	X	P	X	X	AP	X		
Guyed Tower	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Lattice Tower 400 Feet Maximum Height, Max. 150' in PDR	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Monopole Telecommunications Tower with 3 or more providers, 200	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Monopole Tower Greater than 150 feet, 200 feet maximum height	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Monopole Tower Less than 150 feet	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Outpatient Treatment Facility	X	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	X	X	X	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	X	SP	P*	X	
Post Office	X	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	X	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	X	AP	AP	P
Private Community Uses	X	AP	AP/S	AP/SP	AP/S	AP/S	AP/S	AP	AP	AP	AP	AP	X	X	X	P*/SP	P*	X	X	X	X	P*	P*	P*	P*	X	AP	P*	X	
Public Community Uses	X	AP	AP/S	AP/SP	AP/S	AP/S	AP/S	AP	AP	AP	AP	AP	AP	AP	X	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	X	AP	AP/S	P
Public Use Facilities	X	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	X	AP	AP	P
Radio, TV, Communications, Microwave Facilities	See MATRIX OF SITING AND LOCATIONAL PREFERENCE IN - Figure 7-Z, Section 704.59																													
Residential Treatment Facilities	X	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	X	X	X	P*	X	X	X	X	P*	X	P*	X	X	X	SP	P*	X	
Resource Recovery Facilities	X	SP	X	X	X	X	X	X	X	X	X	X	SP	SP	SP	X	X	P*	X	P*	P*	X	P*	X	X	X	X	X	X	
Utility Use	SP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	SP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP/SP	AP	AP	P
Utility Use, Heavy	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P*	X	P*	X	X	X	X	X	X	

COMMUNITY SERVICE USES

<p>AP = Administrative Permit SP = Special Permit</p> <p>P = Permitted X = Not Permitted</p> <p>AP/SP = Administrative Permit or Special Permit required as specified in Section 704 or elsewhere in this Code.</p> <p>P* = With limitations, as specified in Section 704, Conditional Use Criteria, or elsewhere in this Code.</p> <p>AP*/SP = General Agriculture (A) and Suburban Agricultural (A-1) parcels smaller than ten (10) acres in size shall obtain approval by a Special Permit</p> <p>AP¹ or SP¹ = approval is limited to institutional, recreational, schools, and utility uses, all which have a lot area of eight (8) acres or more. Utility facility or sites may be less than eight (8) acres in size with approval of Planning Director.</p> <p>AP² = The Building Permit when authorized by the Planning Director shall serve as the Administrative Permit</p> <p>Note: In the CON District, wastewater treatment facilities shall not be allowed</p>	<p>VIL District Note: All conditional uses within the VIL District shall meet the conditional use criteria for the VIL districts found in Section 704.</p> <p>Note: Notwithstanding the development review procedures set forth in this Figure 6-1 or any other provisions of this Code, the development review procedures required pursuant to Section 605 and Chart 605 shall control when the project requires Special Approval pursuant to any provision of the Comprehensive Plan.</p> <p>Note: Uses identified as "Permitted Uses" in all Planned Development Districts may be permitted with approval of a General Development Plan. PD zoning in itself does not constitute approval to develop.</p> <p>Note: Uses may be further restricted or modified by the overlay district criteria in Section 604.</p> <p>Development in the Cortez Fishing Village Historical and Archaeological overlay district may be limited by and is subject to special standards as contained in Section 604.6.8.</p>
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ORDINANCE NO. 09-60
 MATRIX OF SITING AND LOCATIONAL PREFERENCE
 Figure 7-A, Section 705.59
 (Districts Listed in Descending Order of Preferences)

Preferred Zone Districts (NOTE1:)								
	Camouflaged, Max. 150'	Monopole with 3 or more providers, 200' Max.	Monopole Greater than 150', 200' Max.	Monopole less than 150'	Antenna	Guyed Tower	Lattice Tower 400 Feet Maximum Height, Maximum 150 Feet PDR	Radio, TV, Communi- cations, Microwave Facilities
Industrial								
EX	AP	AP	AP	AP	AP2	AP	AP	SP
HM	AP	AP	AP	AP	AP2	AP	AP	AP/SP
LM	AP	AP	AP	AP	AP2	AP	AP	AP/SP
Agriculture								
A	AP	AP	AP	AP	AP2	SP	SP	AP/SP
A-1	AP	AP	AP*/SP	AP*/SP	AP2	AP*/SP	AP*/SP	SP
Commercial								
CRV	SP AP	X AP	X AP	X AP	AP2	X	X	SP
HC	AP	AP	AP	AP	AP2	SP	SP	AP/SP
GC	AP	AP/SP	AP	AP	AP2	X	X	AP/SP
NC-S	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
NC-M	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
Office								
PR-M	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
PR-S	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
Planned Districts (NOTE1:)								
PDEZ	P AP	P AP	P AP	P AP	P	P	P	P
PDPM	AP	AP	AP	AP	AP	AP	AP	AP
PDPI	AP/P*	AP/P*	AP/P*	AP/P*	AP2	AP/P*	AP/P*	P*
PDI	AP/P*	AP/P*	AP/P*	AP/P*	AP2	AP/P*	AP/P*	P*
PDMU	AP/P*	AP/P*	AP/P*	AP/P*	AP2	AP/P*	AP/P*	P*
PDA	AP/P*	AP	AP/P*	AP/P*	AP2	X	X	X
PDRP	AP/P*	AP/P*	AP/P*	AP/P*	AP2	X	X	P*
PDC	AP/P*	AP/P*	AP/P*	AP/P*	AP2	X	X	P*
PDO	AP/P*	AP/P*	X AP	AP/P*	AP2	X	X	X
PDGC	X AP	AP/P* SP	AP/P* SP	AP/P* SP	AP2	X	X	X
PDUI	AP	AP/SP	AP/SP	AP/SP	AP2	AP	AP	AP
Conservation								
CON - EPMP	AP SP	SP	X SP	X SP	AP2	X	X	SP

ORDINANCE NO. 09-60
 MATRIX OF SITING AND LOCATIONAL PREFERENCE
 Figure 7-A, Section 705.59
 (Districts Listed in Descending Order of Preferences)

Non-Preferred Zone Districts (NOTE2:)								
All Residential Zone Districts:	Camouflaged, Max. 150'	Monopole with 3 or more providers, 200' Max.	Monopole Greater than 150', 200' Max.	Monopole less than 150'	Antenna	Guyed Tower	Lattice Tower 400 Feet Maximum Height, Maximum 150 Feet PDR	Radio, TV, Communications, Microwave Facilities
RSMH-6	SP1	X	X	SP1	AP2	X	X	SP
RSMH-4.5	SP1	X	X	SP1	AP2	X	X	SP
RMF-9	SP1	X	X	SP1	AP2	X	X	SP
RMF-6	SP1	X	X	SP1	AP2	X	X	SP
RSF-4.5	SP1	X	X	SP1	AP2	X	X	SP
RDD-6	SP1	X	X	SP1	AP2	X	X	SP
RDD-4.5	SP1	X	X	SP1	AP2	X	X	SP
RDD-3	SP1	X	X	SP1	AP2	X	X	SP
RSF-3	SP1	X	X	SP1	AP2	X	X	SP
RSF-2	SP1	X	X	SP1	AP2	X	X	SP
RSF-1	SP1	X	X	SP1	AP2	X	X	SP
Planned Development: (NOTE2:)								
PDRV	X P*	X P*	X P*	X P*	AP2	X	X	X
PDMH	AP/P*	X	X	X	AP2	X	X	X
VIL	AP SP	X	SP X	X	AP2	X	SP*	X
PDR	AP/P*	AP4 X	X	AP/P*	AP2	X	AP/SP	X
PDW	AP/P*	X	X	X	AP2	X	X	X
All other Locations								

AP = Administrative Permit

SP = Special Permit

P = Permitted

X = No

Permitted

AP/SP = Administrative Permit required as specified in Section 704 or elsewhere in this code.

AP*/SP = General Agricultural (A) and Suburban Agricultural (A-1) parcels smaller than ten (10) acres in size shall obtain approval by a Special Permit.

AP1 or SP1 = approval is limited to institutional, recreational, schools, and utility uses, all which have a lot area of eight (8) acres or more. Utility facility or sites may be less than eight (8) acres in size with approval of Planning Director.

AP2 = The Building Permit when authorized by the Planning Director shall serve as the Administrative Permit.

P* = With limitations, as specified in Section 704, Conditional Use Criteria, or elsewhere in this Code.

Telecommunication towers in the PDR District are allowed a maximum height of 150 feet.

ORDINANCE NO. 09-60
MATRIX OF SITING AND LOCATIONAL PREFERENCE
Figure 7-A, Section 705.59
(Districts Listed in Descending Order of Preferences)

NOTE: All Telecommunication Towers shall be required to comply with Section 704, Conditional Use Criteria. Uses may be further restricted or modified by the overlay district criteria in Section 604.

NOTE1: If a Telecommunication Tower is proposed in a Preferred Zone and Planned Development Zoning then the review will be administrative, however all other requirements will apply.

NOTE2: If a Telecommunication Tower is proposed in a Non Preferred Zone and Planned Development Zoning then the GDP/PSP must be amended.



Fw: Cell tower ordinance draft

Gwen Brown to: Bobbi Roy, Julie Bassett
Sent by: Shirley Talley

12/21/2009 10:12 AM

----- Forwarded by Shirley Talley/MCG on 12/21/2009 10:09 AM -----

From: "Deborah Chapman" <deborah@chapmanpa.com>
To: <carol.whitmore@mymanatee.org>, <donna.hayes@mymanatee.org>, <gwen.brown@mymanatee.org>, <joe.mcclash@mymanatee.org>, <john.chappie@mymanatee.org>, <larry.bustle@mymanatee.org>, <ron.getman@mymanatee.org>
Cc: <robert.eschenfelder@mymanatee.org>, <sarah.schenk@mymanatee.org>, <sharon.tarman@mymanatee.org>, <Stop.Tower@gmail.com>
Date: 12/18/2009 01:57 PM
Subject: Cell tower ordinance draft

Hon. Commissioners & Dr. Brown,

We are very glad to see that more restrictive cell tower regulations have been drafted for your review, and we appreciate the effort County staff has employed in preparing these amendments. However, we do have some questions and concerns regarding a few of the details. In particular, we are perplexed as to all of the exceptions listed within 704.59.3.12.15. For example, a tower company stating that all of the alternative locations (in the preferred non-residential zones) do not "meet the applicant's engineering requirements for the proposed PWSF" is a very low threshold. It would be easy for any applicant to claim this as a reason for choosing the non-preferred (i.e, residential) location to site a tower. While the last paragraph of 704.59.3.12.15 addresses the issue of prohibition of service, we believe its preceding stipulations weaken this clause and are confusing in that they reference co-location, versus siting, factors.

According to both the 1996 Federal Telecommunications Act and the Florida Statutes, local governments CAN exclude the placement of cell towers in residential areas as long as it does not result in an "*actual or effective prohibition of the provider's service in that residential area or zoning district* ." (FL Statute 365.172.(12)(b)3). This threshold is much higher than the drafted LDC language and protects residential neighborhoods from tower companies claiming a "requirement" versus proving the prohibition of their service. As the Board discussed in the recent River Club case, "optimal coverage" is not the same thing as the minimum service the Telco Act requires.

Keeping in mind your original objectives and the impetus behind the citizens' request for an amended code, the most significant change is seen as the clear restriction of towers in residential communities. Quoting the County Clerk's 9/22/09 BOCC recorded minutes: "*Rob Eschenfelder, Deputy County Attorney, reviewed the County's policy regarding location of cell towers. Florida Law allows counties to adopt an ordinance amending the LDC, which authorizes prevention of towers in residential districts as long as it does not ban a provider from delivering service.*" Additionally, the minutes state, " *Mr . Eschenfelder*

sought clarification and questioned if the Board intends to specify no towers in residential areas unless the demonstrated need is there." Commissioner McClash's clarification of the motion confirmed this to be the intent.

We encourage the County to carefully reevaluate this component of LDC 704.59 and bring it into alignment with the objectives of the County Commissioners' original November 4, 2008 resolution and the September 22, 2009 directive by incorporating the language Mr. Echenfelder presented 9/22/09.

Finally, in reviewing Sarasota County's code, they have the following elements below their "Purpose and Intent" section which we believe would strengthen Manatee County's code:

"(b) Section 704 of the Telecommunications Act of 1996 (47 U.S.C s 332(c)(7)), relating to Federal, State and local government oversight of siting of Wireless Communication Facilities, preserves the authority of local government to regulate the location, construction and modification of Wireless Communication Facilities, such as Telecommunications Towers, Temporary Wireless Telecommunications Facilities, Antennas and associated Support Facilities.

(c) Section 704(a) of the 1996 Act provides that local governments may not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(e) The residents of Sarasota County have expressed significant concern in relation to the location, construction and modification of Telecommunications Towers, Temporary Wireless Telecommunications Facilities, Antennas and associated Support Facilities with respect to the preservation of community aesthetics, land use compatibility, the safety of Telecommunications Towers in the event of hurricane, tornado, severe thunderstorm or other events, and the potential impact that Telecommunications Towers, Temporary Wireless Telecommunications Facilities, Antennas and associated Support Facilities will have on property values.

g) Wireless Communication Facilities are to be designed and constructed so as to have a minimal impact on community aesthetics, land use compatibility or property values without prohibiting or having the effect of prohibiting the provision of Wireless Communication Services."

Thank you for your time and consideration of this issue. We look forward to your response and your discussion of this topic at the January 7 BOCC meeting.

Respectfully,

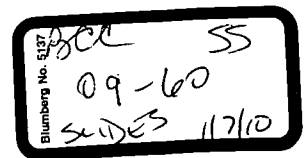
Deborah Chapman



Palm Aire Homeowners Against the Tower Proposed Cell Tower Ord (1).pdf

Revisions to LDC (Ordinance No. 09-60)

Personal Wireless Services Facilities
First Public Hearing January 7, 2010



Background

- Board directed preparation of an amendment to the LDC to:
- Add Siting Preferences for PWSF (Personal Wireless Services Facilities) to focus locational preferences away from residential zone districts for towers.

Background

CAO also prepared amendments to:

- remain consistent with Section 365.172, F.S. and
- With recent rulings of the FCC (Federal Communications Commission)

Background

Federal Law

Local government regulations shall not:

- Unreasonably discriminate among providers of functionally equivalent services or
- Prohibit or have the effect of prohibiting the provision of personal wireless services (47 U.S.C. S. 332 (c)(7)(B))

Background

Florida Statutes

- The LDC shall focus only on land development and zoning issues
- The LDC may not require information on a wireless provider's business decisions about its service, customer demand or quality of service from a particular site.
(Sec. 365.172, F.S .)

Background

Florida Statutes

- LDC may not require information on the provider's designed service unless the information is directly related to an issue identified in the LDC.
- LDC may impose design requirements:
 - to support collocation or
 - to address aesthetic requirements

Background

Florida Statutes

- LDC may not impose construction standards beyond those adopted in Chapter 553, F.S. related to building codes.
- LDC may require proof of compliance with FAA reg 14 C.R.F. Sec. 77 and evidence of overall FCC licensure. (Local gov't may request the FCC to provide other info directly).

Background

Florida Statutes

LDC may address design requirements:

- aesthetics,
- landscaping,
- land use based location priorities,
- structural design
- and setbacks.

Sections in LDC

- Exhibit A: LDC Section 201-Definitions
- Exhibit B: LDC Section 704, Conditional use Criteria-Sec.704.59 PWSF=Personal Wireless Service Facilities
- Exhibit B: New Figure 7-A, Matrix of Siting and Locational Preferences-PWSF
- Exhibit C: Amended Figure 6-1, Matrix of Community Service Uses, other than PWSF

Definitions-Section 201

The following new definitions were added:

- Building permit review
- Cellular
- Collocation
- Existing structure
- Federal communications Commission (FCC)
- Land Development Regulations

Definitions-Sections 201

- Non-Preferred Zone districts
- Personal Wireless Service Facility (PWSF)
- Preferred Zone Districts
- Radio Frequency (RF) Engineer
- Site

Personal Wireless Service Facilities- Section. 704.59

Purpose

Encourage use of sites already developed with non-residential, commercial and industrial uses:

- Industrial
- Agriculture
- Commercial
- Office and certain Planned Development Districts

Personal Wireless Service Facilities

Section 704.59

Purpose

Discourage new telecommunication towers in non-preferred zone districts:

- All residential zone districts
- Certain Planned Development Districts

Personal Wireless Services

Section 704.59

Purpose

- Enhance ability of providers to provide services to the community quickly, effectively and efficiently
- Expedite the review process for applications choosing the least intrusive alternative of deploying PWSF's.

Personal Wireless Service Providers

Section 704.59

FCC Rulings:

- When considering an application for a proposed PWSF, the County cannot consider the availability of service from other PWSF providers to the area under consideration.

(Sec. 704.59.3.1 (B))

Personal Wireless Services Providers (PWSF)Section 705.59

Accessory Uses:

- Amateur radio antennas (e.g. Ham radio) remain as accessory antennas under Section 703.2.1 and this is unchanged by Ord. 09-60.

Personal Wireless Service Facilities

Section 704.49

- Separation from Arterial Roadways:
remains at 125% of tower height, unless
an engineering certification shows the
tower is designed to collapse within a
smaller area(Sec. 704.59.3.3.4)

Personal Wireless Service Facilities

Section 704.49

Landscaping and Screening:

- The Planning Director may modify the landscaping requirements in industrial or agricultural zone districts. (Sec. 704.59.3.5)

Personal Wireless Service Facilities

Sec. 704.59

Deadline to Act:

- New PWSF: No later than 90 business days to act on application after application deemed complete. (Sec. 704.59.3.10)
- Collocation of PWSF: No later than 45 business days from date application deemed complete. (Sec. 704.59.3.2)

Siting Preferences-PWSF

Section 704.59

- Preference is given to government owned property in the search ring for the PWSF.
- Documentation is required to explain why government-owned property is not available.

Siting Preferences-PWSF Section 704.49

Alternatives for Providers:

- One alternative is submittal of a letter signed on behalf of the government stating the property is unavailable or
- An affidavit stating the location of the PWSF on government –owned property would have the effect of preventing the applicant from providing services to the intended coverage area.

Siting Preferences-PWSF

Section 704.59

If the proposed PWSF is not in a Preferred Zone:

- Applicant submits a map of the area and a description of why each preferred site is not available for the PWSF;

Contents of explanation:

- Applicant's engineering requirements
- Sufficient height?

Preferred Zone Districts

Section 704.59

Applicant's explanation cont'd: (if not in Preferred Zone District):

- Sufficient vertical space to accommodate applicant's antenna?
- Site is available for lease?
- Whether the preferred location would have the effect of preventing the applicant from providing wireless services to the intended coverage area?

Non-Preferred Zone Districts

Section 705.59

PWSF proposed in a residential zone (non-preferred):

- Applicant shall submit a statement with facts demonstrating:

Whether the applicant can reasonably provide wireless service to the residential area or zone from outside the residential area or zone district?

Proposed PWSF Visual Aids Section 704.59

- LDC specifies visual aids showing existing and post-development conditions from a least four locations.
- The visual aids shall show the relationship and proximity to neighboring residential zone districts and uses and how the PWSF will appear from public viewpoints.

PWSF's –Experts Section 704.59

- Enables the County to require a technical review by a third-party expert
- The costs of the expert shall be borne by the applicant through a fee deposit.
- The expert may review items such as:
 - The accuracy and completeness of submission

PWSF's –Experts Section 704.59

- Expert may review:
 - The analysis technique and methodologies
 - The validity of conclusions reached
 - Whether the proposed PWSF complies with the applicable LDC standards

PWSF's –Experts Section 704.59

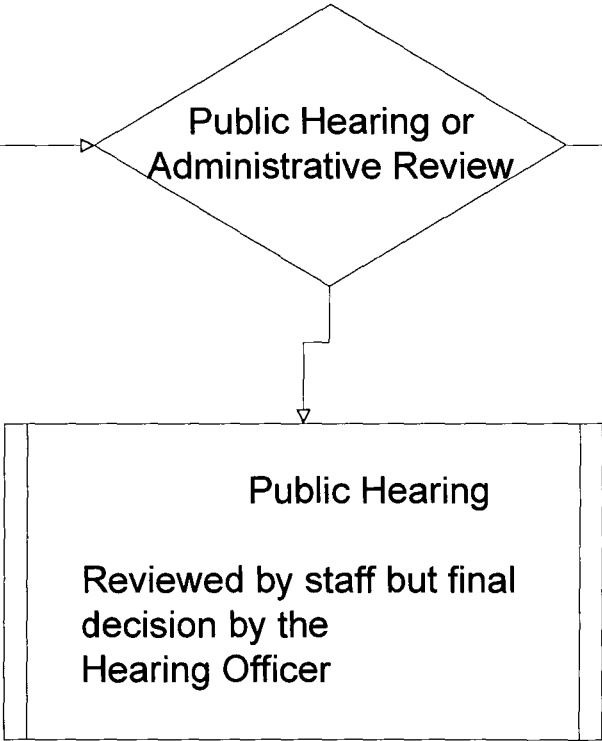
- Expert may review:
 - Other matters deemed by the County to be relevant in determining whether a proposed PWSF complies with the LDC

Matrix

- Figure 7-A contains details as to the Preferred and Non-Preferred Zone Districts and will be presented by Planning Staff.

Preferred Zone Districts

Zoning Districts
Industrial
Agriculture
Commercial
Office
Planned Districts (Industrial/
Commercial)
Conservation



Administrative
Review and final
decision by staff

09-60 ST
12/10
11/7/10
Simsberg No. 6137

ORDINANCE NO. 09-60
 MATRIX OF SITING AND LOCATIONAL PREFERENCE
 Figure 7-A, Section 705.59
 (Districts Listed in Descending Order of Preferences)

Preferred Zone Districts (NOTE1:)								
	Camouflaged, Max. 150'	Monopole with 3 or more providers, 200' Max.	Monopole Greater than 150', 200' Max.	Monopole less than 150'	Antenna	Guyed Tower	Lattice Tower 400 Feet Maximum Height, Maximum 150 Feet PDR	Radio, TV, Communi- cations, Microwave Facilities
Industrial								
EX	AP	AP	AP	AP	AP2	AP	AP	SP
HM	AP	AP	AP	AP	AP2	AP	AP	AP/SP
LM	AP	AP	AP	AP	AP2	AP	AP	AP/SP
Agriculture								
A	AP	AP	AP	AP	AP2	SP	SP	AP/SP
A-1	AP	AP	AP*/SP	AP*/SP	AP2	AP*/SP	AP*/SP	SP
Commercial								
CRV	<u>SP AP</u>	<u>X AP</u>	<u>X AP</u>	<u>X AP</u>	AP2	X	X	SP
HC	AP	AP	AP	AP	AP2	SP	SP	AP/SP
GC	AP	AP/SP	AP	AP	AP2	X	X	AP/SP
NC-S	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
NC-M	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
Office								
PR-M	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
PR-S	AP	AP/SP	SP	SP	AP2	X	X	AP/SP
Planned Districts (NOTE1:)								
PDEZ	<u>P AP</u>	<u>P AP</u>	<u>P AP</u>	<u>P AP</u>	P	P	P	P
PDPM	AP	AP	AP	AP	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>
PDPI	AP/P*	AP/P*	AP/P*	AP/P*	AP2	AP/P*	AP/P*	P*
PDI	AP/P*	AP/P*	AP/P*	AP/P*	AP2	AP/P*	AP/P*	P*
PDMU	AP/P*	AP/P*	AP/P*	AP/P*	AP2	AP/P*	AP/P*	P*
PDA	AP/P*	AP	AP/P*	AP/P*	AP2	X	X	X
PDRP	AP/P*	AP/P*	AP/P*	AP/P*	AP2	X	X	P*
PDC	AP/P*	AP/P*	AP/P*	AP/P*	AP2	X	X	P*
PDO	AP/P*	AP/P*	<u>X AP</u>	AP/P*	AP2	X	X	X
PDGC	<u>X AP</u>	AP/P* SP	AP/P* SP	AP/P* SP	AP2	X	X	X
PDUI	AP	AP/SP	AP/SP	AP/SP	AP2	AP	AP	AP
Conservation								
CON - EPMP	<u>AP SP</u>	SP	<u>X SP</u>	<u>X SP</u>	AP2	X	X	SP

Non Preferred Zone Districts

Zoning Districts
Residential
Planned Development
(Residential)

Public Hearing or
Administrative Review

Administrative
Review and final
decision by staff

Public Hearing

Planned Development
Reviewed by staff
but final decision by the
Board of County Commissioners

Public Hearing

Special Permit
Reviewed by staff but final
decision by the
Hearing Officer

Bloomington No. 6137
BOC ST
09-60
NON-EXEMPT

ORDINANCE NO. 09-60
 MATRIX OF SITING AND LOCATIONAL PREFERENCE
 Figure 7-A, Section 705.59
 (Districts Listed in Descending Order of Preferences)

Non-Preferred Zone Districts (NOTE2:)								
All Residential Zone Districts:	Camouflaged, Max. 150'	Monopole with 3 or more providers, 200' Max.	Monopole Greater than 150', 200' Max.	Monopole less than 150'	Antenna	Guyed Tower	Lattice Tower 400 Feet Maximum Height, Maximum 150 Feet PDR	Radio, TV, Communications, Microwave Facilities
RSMH-6	SP1	X	X	SP1	AP2	X	X	SP
RSMH-4.5	SP1	X	X	SP1	AP2	X	X	SP
RMF-9	SP1	X	X	SP1	AP2	X	X	SP
RMF-6	SP1	X	X	SP1	AP2	X	X	SP
RSF-4.5	SP1	X	X	SP1	AP2	X	X	SP
RDD-6	SP1	X	X	SP1	AP2	X	X	SP
RDD-4.5	SP1	X	X	SP1	AP2	X	X	SP
RDD-3	SP1	X	X	SP1	AP2	X	X	SP
RSF-3	SP1	X	X	SP1	AP2	X	X	SP
RSF-2	SP1	X	X	SP1	AP2	X	X	SP
RSF-1	SP1	X	X	SP1	AP2	X	X	SP
Planned Development: (NOTE2:)								
PDRV	X P*	X P*	X P*	X P*	AP2	X	X	X
PDMH	AP/P*	X	X	X	AP2	X	X	X
VIL	AP SP	X	SP X	X	AP2	X	SP*	X
PDR	AP/P*	AP1 X	X	AP/P*	AP2	X	AP/SP	X
PDW	AP/P*	X	X	X	AP2	X	X	X
All other Locations								

AP = Administrative Permit
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AP2 = The Building Permit when authorized by the Planning Director shall serve as the Administrative Permit.

P* = With limitations, as specified in Section 704, Conditional Use Criteria, or elsewhere in this Code. Telecommunication towers in the PDR District are allowed a maximum height of 150 feet.

ORDINANCE NO. 09-60
MATRIX OF SITING AND LOCATIONAL PREFERENCE
Figure 7-A, Section 705.59
(Districts Listed in Descending Order of Preferences)

NOTE: All Telecommunication Towers shall be required to comply with Section 704, Conditional Use Criteria. Uses may be further restricted or modified by the overlay district criteria in Section 604.

NOTE1: If a Telecommunication Tower is proposed in a Preferred Zone and Planned Development Zoning then the review will be administrative, however all other requirements will apply.

NOTE2: If a Telecommunication Tower is proposed in a Non Preferred Zone and Planned Development Zoning then the GDP/PSP must be amended.

My name is Deborah Chapman and I have been sworn.

I appreciate the opportunity to speak to you today and the fact that we are addressing a more restrictive cell tower code. While we are happy to see the amendments drafted, we do have some questions about the changes.

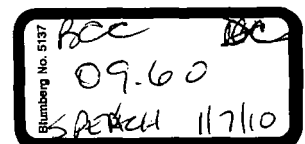
In particular, the portion of the code which clearly restricts the placement of cell towers in residential neighborhoods is viewed by us to be the critical component of the code and the reason we encouraged you to modify it in the first place.

As I wrote to you, section 704.59.3.12.15 seems to weaken the notion of a residential restriction. If, in fact, the intent is to say that residential cell towers are banned unless there is a clear prohibition of service, as Deputy Attorney Rob Eschenfelder indicated the laws allow, then this section does not appear to clearly articulate that. We, therefore, encourage you to review these amendments to ensure their alignment with your stated objectives to create a code that is as restrictive as the federal and state laws allow.

I also sent you language from Sarasota County's land code. Specifically, letter "g" under their Purpose and Intent states: *"Wireless Communication Facilities are to be designed and constructed so as to have a minimal impact on community aesthetics, land use compatibility or property values without prohibiting or having the effect of prohibiting the provision of Wireless Communication Services."*

While your attorney's office has stated a policy of not including property values in land use decisions, the courts consistently recognize devaluation as an example of negative impact in cell tower rulings. It would therefore not only protect the citizens better to include such language, but we believe it would also protect the county in any possible litigation to have defensible criteria, like aesthetics, land use compatibility and property value, clearly spelled out within its code.

Again, we appreciate you taking the time to respond to your citizens' concerns on this matter and we encourage you to address these issues in today's discussion. Thank you.



Commissioners, Ladies and Gentlemen,

My Name is Geoffrey Haines. I live at 904 52nd Avenue Boulevard West in Manatee County. I am a licensed amateur radio operator granted an Amateur Extra Class License by the Federal Communications Commission. I am also a member of The Amateur Radio Emergency Services group here in Manatee County. I have authored a large number of articles on various aspect of amateur radio in national publications as well as writing a monthly column for a local news organization. I also edit and write for a quarterly electronic publication called "The Experimenter". I also have been the recipient of several awards in the area of technical writing from QST magazine and The West Central Florida Section of the ARRL. I mention these facts only to demonstrate that I have some level of knowledge with regard to the ordinance (09-60) under discussion. I have read the proposed ordinance and I am quite frankly dismayed. As an amateur radio operator licensed by the federal government, my antennas fall under laws enacted by both the federal and state authorities. These laws, reproduced here from the FLORIDA STATE STATUTES:

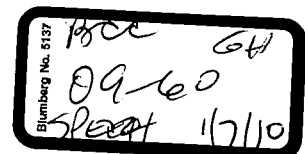
125.561 Amateur Radio Antennas; construction in conformance with federal requirements.--

(1) No county shall enact or enforce any ordinance or regulation which fails to conform to the limited preemption entitled "Amateur Radio Preemption, 101 FCC 2d 952 (1985)" as issued by the Federal Communications Commission. Any ordinance or regulation adopted by a county with respect to amateur radio antennas shall conform to the above-cited limited preemption, which states that local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose.

(2) Nothing in this section shall affect any applicable provisions of Chapter 333.

166.0435 Amateur radio antennas; construction in conformance with federal requirements.--

(1) No municipality shall enact or enforce any ordinance or regulation which fails to conform to the limited preemption entitled "Amateur Radio Preemption, 101 FCC 2d 952 (1985)" as issued by the Federal Communications Commission. Any ordinance or regulation adopted by a municipality with respect to amateur radio antennas shall conform to the above cited limited preemption, which states that local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose.



(2) Nothing in this section shall effect any applicable provisions of chapter 333.

The proposed Manatee County ordinance would violate that law. I strongly suggest that an exemption be written into the proposed ordinance to cover the antennas and antenna support structures of federally licensed amateur radio operators where no commercial activity is conducted. An example of such a provision is here:

Sec 7, Applicability

"Exemption:

Amateur radio Antennas and any Tower to support those Antennas that are owned and operated by a federally licensed amateur radio station used exclusively for noncommercial purposes. Such antennas and antenna support structures shall be exempt from the requirements of this ordinance".

This wording is taken from the regulations of several ordinances passed by other counties in the region. As the writer of a presentation to the amateur radio community on the very subject of tower regulation, I can assure you that this wording is necessary to avoid preemption by state and federal statute, which will negate the very effect you are working for.

The amateur radio community in Manatee County is a valuable resource to the county and its residents. Indeed Manatee County itself currently owns at least three amateur radio repeaters to facilitate communications in time of emergency. These are located on top of the county administration building, Blake Hospital and the water tower near the dam. Without the exemption I and others propose, the future of amateur radio communications assistance to Manatee County in time of natural or other disaster may be severely impacted. It is common for people to forget that all of the usual means of communication, telephone, Internet, cellular phones, etc are completely dependent on a vast but vulnerable infrastructure. Severe weather, power failure, even overcrowding in time of disaster can bring the entire system to its knees in short order. Amateur radio, by its very nature is immune to that vulnerability and thus constitutes a vital resource to the citizens of this county.

I am available at your convenience to discuss this proposed ordinance. I would also like to be able to voice my concerns at the public meeting on January 7th at 9:00AM.

My telephone number is 941-752-3696

Sincerely,

Geoffrey E. Haines, N1GY

President, West Central Florida Group Inc. (NI4CE.org)

Assistant Section Manager, West Central Florida Section, American Radio Relay League

Technical Coordinator, West Central Florida Section, American Radio Relay League

Past President, Manatee Amateur Radio Club Inc.

E-Mail: n1gy@arrl.net

web site: <http://n1gy.com>

2009 Sees Surge of New Amateur Radio Licensees

This past year was a banner year for new Amateur Radio licensees. According to ARRL VEC Manager Maria Somma, AB1FM, the FCC issued more than 30,000 new ham radio licenses. "In 2009, the demand for Amateur Radio exam sessions remained elevated and is still running at a higher rate than before the FCC's restructuring of the license requirements in 2007," Somma said. "This high level of exam session activity has produced an elevated influx of new applications, far outpacing recent years."

A total of 30,144 new licenses were granted in 2009, an increase of almost 7.5 percent from 2008. In 2005, 16,368 new hams joined Amateur Radio's ranks; just five years later, that number had increased by almost 14,000 -- a whopping 84 percent! The ARRL VEC is one of 14 VECs who administer Amateur Radio license exams.

"When looking at the statistics over the last 10 years, these are some the highest numbers we've seen," Somma explained. "Additionally, our total number of licensees across all three classes has grown each year." Currently there are 682,500 licensed Amateur Radio operators in the US, an almost 3 percent rise over 2008. In 2008, there were 663,500 licensed amateurs; there were 655,800 in 2007. Broken down by license class, at the end of 2009 there were 17,084 Novices, 334,245 Technicians, 150,970 Generals, 60,795 Advanced and 119,403 Amateur Extra licensees.

"The ARRL VEC has been busy meeting the needs of the Amateur Radio community by helping people to become radio amateurs or upgrade their existing licenses," Somma said. "In 2009, ARRL VEs administered 44,595 exam elements at 6369 ARRL VEC-sponsored exam sessions. The number of amateurs who want to be Volunteer Examiners and who want to teach Amateur Radio classes is also going up -- we've seen a spike in the number of applications from General and Extra class radio amateurs who want to give back to their community by serving as ARRL examiners and instructors."

Somma applauded all the volunteers whose "hard work and contribution of countless hours of time helps to ensure the future of Amateur Radio. The ARRL VEC thanks our 32,411 VEs from around the world whose dedication and service helped to contribute to the success of Amateur Radio. I am delighted by these important achievements. 2009 was a very good year for Amateur Radio and I am excited by the promise of 2010."

BOCC 01/07/2010
SUGGESTED CHANGE IN AMENDMENT TO LDC

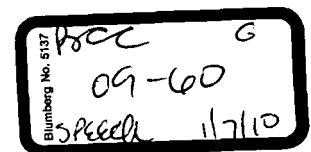
- In order to better inform the public in the case of a new Telecommunication tower, the applicant shall hold a “balloon test” prior to the initial public hearing on the application. The applicant shall arrange to fly a minimum of a five (5) foot in diameter brightly colored balloon at the maximum height of the proposed new tower.

- At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4’) by four feet (4’) in size and shall be readable from the road by a person with 20/20 vision.

- Such sign shall be placed off, but as near to, the public right-of-way as is possible.

- Such sign shall contain the times and date(s) of the balloon test and contact information.

- The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the County and as agreed to by the County. The applicant shall inform the County in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be



flown for at least four (4) consecutive hours between 10:00 am and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.

- The applicant shall notify all property owners and residents located within one-thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the tower and wireless facility and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail.

DRAFT
12/04/09

ORDINANCE NO. 09-60

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; PROVIDING FINDINGS; AMENDING CHAPTER 7 OF THE LAND DEVELOPMENT CODE, DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY; AMENDING SECTION 704.59 AND RENAMING IT PERSONAL WIRELESS COMMUNICATION SERVICE FACILITIES (PCWSF); AMENDING DEFINITIONS; AMENDING DEVELOPMENT STANDARDS AND ESTABLISHING SITING PREFERENCES REGARDING PERSONAL WIRELESS COMMUNICATION SERVICE FACILITIES; PROVIDING FOR CONSISTENCY WITH THE FLORIDA STATUTES; AMENDING FIGURE 6.1 COMMUNITY SERVICE USES TO CLARIFY THE DEVELOPMENT PROCESS REQUIRED FOR PERSONAL WIRELESS COMMUNICATION SERVICE FACILITIES; AMENDING OTHER PROVISIONS AS NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

It appears that the term "Personal Wireless Service Facility," used throughout the rest of the ordinance, was not used at the beginning. It is suggested, for consistency, that the broader term be used.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

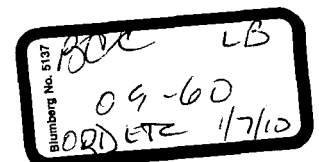
Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. Chapter 7 of the Manatee County Land Development Code (the "Code") sets forth the procedures for consideration of various applications for development approval and permitting, including Personal Wireless Communication-Service Facilities (f/k/a telecommunication facilities).

2. It is in the interest of the public health, safety and welfare to adopt the amendments to Chapter 7 of the Code, in order to establish a process for review and consideration of Personal Wireless Communication-Service Facilities consistent with recent amendments to Section 365.172, *Florida Statutes*.

3. It is the intent of the Board of County Commissioners to locate Personal Wireless Communication-Service Facilities to minimize adverse visual impacts and the effects of telecommunication towers through the utilization of careful design,



landscaping, screening, innovative camouflage techniques and siting preference standards.

4. The Manatee County Planning Commission, held a duly noticed public hearing, reviewed the amendments set forth in this Ordinance, found them to be consistent with the Comprehensive Plan, and recommended their adoption by the Board, on December 10, 2009.

5. The Board of County Commissioners held two duly noticed public hearings on _____, 2010 and _____, 2010 to consider adoption of the proposed ordinance and received public comments thereon.

Section 3. Amendment of Chapter 2, Definitions and Rules of Construction, Land Development Code. Chapter 2 of the Code is hereby amended in Section 201, Definitions, to either repeal or amend various definitions regarding telecommunication towers and adding a new definition regarding Personal Wireless Communication Service Facilities (PWCSF), a copy attached hereto labeled Exhibit "A" to this ordinance and made a part hereof by reference.

Section 4. Amendment of Chapter 7, Development Standards of General Applicability. Chapter 7 of the Code is hereby amended in Section 704.59, Telecommunication Facilities; to repeal certain provisions and to amend other sections in their entirety all regarding the regulation of Personal Wireless Communication Service Facilities (f/k/a telecommunication facilities). Said new regulations shall be contained in an amended Section 704.59, a copy of which is attached hereto labeled Exhibit "B" to this ordinance and made a part hereof by reference.

Section 5. Chapter 6, Zoning Districts. Figure 6-1, Community Service Uses is hereby amended to add a Note to clarify development approvals required for ~~Personal Communication Services (PCS), f/k/a telecommunication towers~~ Personal Wireless Service Facilities. Said Note to be affixed at the end of Figure 6-1, Community Services Uses shall provide as follows:

"Note: Notwithstanding the development review procedure set forth in Figure 6-1 or other provisions of this Code, the development review procedures required pursuant to Section 704.59 of this Code shall control when the proposed use is a Personal Communication Wireless Service Facility including telecommunication towers, within the meaning of Section 365.172, Florida Statutes."
(Additions indicated by underlining, deletions by ~~strikeout~~).

The statute meaning of these terms is not addressed in Section 704.59 and addressing it here adds confusion. The apparent intent is for there to be a specific review process for PWSF, as defined by the Code, so it would be less confusing to say that.

Section 6. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Sections 3, 4 and 5 of this Ordinance into the Land Development Code.

Section 7. Applicability. The amendments set forth in this Ordinance shall apply to all applications for approvals of Personal Wireless Service Facilities filed with the County after the effective date hereof. Applications for approvals for Personal Wireless Service Facilities filed with the County and deemed complete by the County prior to the

effective date of this Ordinance shall not be subject to the regulations contained in this Ordinance.

Section 8. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 9. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this ____ day of _____.

COMMISSIONERS

**BOARD OF COUNTY
OF MANATEE COUNTY, FLORIDA**

By:

Chairman _____,

**ATTEST: R.B. SHORE
Clerk of the Circuit Court**

By: _____
Deputy Clerk

ORDINANCE NO. 09-60

EXHIBIT "A"

**PERSONAL WIRELESS COMMUNICATION SERVICE FACILITIES (PCAWSF)
AMENDED DEFINITIONS**

"Sec. 201. *Definitions and Rules of Construction* is hereby amended to set forth definitions unique to Personal Wireless Communication Service Facilities as regulated in Section 704.59 of this Code. Additions to text are indicated by underlining, deletions by ~~strikeout~~.

Adverse Visual Impact as used in Section 704.59 of this Code, the negative visual effect of a PWSF on its surroundings. The fact that a PWSF can be seen does not equate to a negative visual effect. Whether the visual effect of a PWSF is adverse is based on the existence of relevant negative factors for that facility, the number of those negative factors, and the degree that the facility evidences those negative factors. Relevant negative factors include: a large amount of the PWSF is visible from normal views; the PWSF is of a design, material, location or size that readily catches and holds a viewer's eye when viewed from normal views; the PWSF is to be lighted and in an area with few or no other lighted objects; the PWSF is readily identifiable as a PWSF by the average viewer; the PWSF, when viewed from normal views, appears out of place in the area; there is an absence of existing visual impact from other uses in the area surrounding the PWSF; there is an absence of vegetation, structures or other screening between the PWSF and normal views; the scale (height and bulk) of the PWSF is significantly greater than other uses existing or allowed in the surrounding area; the facility is proposed in an area visually protected by adopted view protection corridors or generally applicable aesthetic regulations that heighten the protection of the overall aesthetics of the area; and a large amount of the available view is occupied by the PWSF, relative to all available views.

Alternative Support Structure shall mean clock towers, steeples, light poles, buildings, or similar structures that may support telecommunication facilities.

Antenna shall mean any exterior apparatus designed for telecommunication and any other electronic communicating devices or services through the sending or receiving of electromagnetic waves. This term includes satellite dish antennas, utility pole mounted antennas, and antenna arrays.

Building Permit Review (BPR) is a review for compliance with building construction standards adopted by the County under Chapter 533, Florida Statutes, and does not include a review for compliance with Land Development Regulations.

Camouflaged Tower shall mean any telecommunication tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. Towers which have been painted shall not be considered "camouflaged."

~~*Cellular* means a mobile wireless communication service operating in a spectrum approved by the FCC for such uses.~~

Collocation means the placement of a second or subsequent wireless antenna on an existing telecommunications tower or existing structure. The term includes the ground,

This term is not used anywhere in the ordinance, so there doesn't seem to be a need to define it.

platform or roof installation of equipment enclosures, cabinets or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennae.

Existing Structure means a structure that exists at the time an application for permission to place antennae on a structure is filed with the County. The term includes any structure that can structurally support the attachment of antennae in compliance with applicable codes.

Falldown Radius shall mean the designated area of a telecommunication facility surrounding a telecommunication tower, which, in the event of a structural failure of all or part of the telecommunications tower, would likely contain the failed or collapsed telecommunication tower. This area may also be called the collapse zone. The falldown radius size shall equal one hundred twenty five (125) percent of the tower height, unless an engineering certification shows that in the event of collapse, the telecommunication tower is designed to collapse within a smaller area.

Federal Communications Commission (FCC) means an independent federal agency charged with licensing and regulating wireless communications at the national level.

Guyed Tower shall mean a telecommunication tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

Height, Telecommunication Tower shall mean the distance measured from base (top of foundation) to the highest point of the tower. This measurement excludes any attached antennas, and lighting. The height of the base exceeding four (4) feet above grade shall be included in height of tower.

Land Development Regulations. An ordinance enacted by the County for the regulation of any aspect of development, including an ordinance governing zoning, subdivisions, landscaping, tree protection, or signs, the County's Comprehensive Plan or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with Chapter 553, Florida Statutes.

Lattice Tower shall mean a telecommunication tower that consists of vertical and horizontal supports and crossed metal braces, which is usually triangular or square in a cross section.

Monopole Tower shall mean a telecommunication tower of a single pole design.

~~*Personal Communication Services (PCS)* means a mobile telephone services operating in a 1900MHz spectrum.~~

Personal Wireless Service Facility (PWSF) means a facility for the provision of personal wireless services as defined in Section 704 of the Telecommunications Act of 1996. A PWSF is any facility for the transmission and/or reception of personal wireless services, which may consist of an antennae array, transmission cables, equipment shelter or building, access road, ~~mount~~ telecommunication tower and a guy system.

This term is not used this way in the ordinance. As it was used, it appears that the term PWSF was intended. Therefore, it wouldn't seem to need to be defined.

The term "mount" as used here and a few other places in the ordinance is a leftover term from some jurisdictions that used it as a term for a tower or the antenna mounting bracket. The defined term "telecommunication tower" would be more appropriate.

Platform shall mean a support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

Preferred Zone Districts as used in Section 704.59 of this Code, the zone districts preferred as siting preferences for PWSF as described in Figure 7-A.

Preferred Locations as used in Section 704.59 of this Code means the locational preferences for PWSF listed in Figure in 7-A.

~~*Radio Frequency (RF) Engineer* means a licensed qualified electrical or microwave engineer specializing in the study of radio frequencies and/or the design of radio systems.~~

Site means that portion of a subject property where a PWSF is to be placed and which contains all associated ~~mounts~~ telecommunication towers, equipment buildings, and shelters, security fencing, landscaping, access and utility easements and any guy wires and anchors. ~~An acceptable location may have several potential sites within it.~~

Tall Tower shall mean any telecommunication tower with an overall height of five hundred (500) feet or more above grade, which contains one (1) or more antennas for telecommunication services.

Tall Tower Cluster shall mean a grouping of two (2) or more tall towers in a specified geographical location with established dimensions of area and height, where tall towers with a common impact on aviation may be grouped.

Telecommunication Equipment Building shall mean the telecommunication support facility structure located on a tower site, which houses the electronic receiving and relay equipment.

Telecommunication Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more ~~wireless provider's~~ antennae, including camouflaged towers, lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, and common-carrier towers. The term shall exclude alternative support structures.

This term is not used in the ordinance. The applicable engineer referenced is more often a structural or civil engineer rather than a RF engineer, so the generic term of "engineer" used in the ordinance is more appropriate than a specific type of engineer.

See the reference above to the term "mount." The last sentence is from another jurisdiction's ordinance and would not apply to this ordinance.

It appears, from the second sentence, that the term "telecommunication tower" is meant to include more than towers with PWS antennas on it. Therefore, the term "wireless provider" doesn't seem to be needed.

ORDINANCE NO. 09-60
EXHIBIT "B"

PERSONAL COMMUNICATION WIRELESS SERVICES (PCS) FACILITIES (PWSF)

Section 704. Conditional Use Criteria.

* * *

Sec. 704.59. ~~Telecommunications Facilities~~ Personal Wireless Service Facilities

Purpose and Intent:

The purpose and intent of this section is to provide development standards relating to specific types of Personal Wireless Service Facilities (PWSF). The requirements established herein are deemed necessary by Manatee County to protect and enhance the community's environmental, economic, and aesthetic quality, thereby contributing to the overall objective of promoting the health, safety, and general welfare.

More specifically, it is the purpose of this section to:

- (1) Encourage the use of alternative support structures, collocation of new antennas on existing telecommunication towers and existing structures, camouflaged towers, monopoles, and construction of towers with the ability to locate three (3) or more providers, respectively.
- (2) Consider the design of the PWSF, with particular reference to design characteristics that have the effect of minimizing the adverse visual impact of the ~~mounts of the~~ PWSF and associated equipment
- (3) Encourage the use of sites which are already developed with non-residential, commercial and industrial uses, and which may already be currently visually impacted by tall structures, through the use of siting and locational preferences.
- (4) To promote compatibility of PWSF with surrounding land uses and protect the attractiveness, health, safety and general welfare of the community.
- (5) Discourage new telecommunication towers in the non-preferred zone districts described in Figure 7-A of this Section, inclusive of all residential zone districts, through the use of siting and locational preferences to further the preservation of community aesthetics, and the compatibility of land uses in residential zone districts.
- (6) Enhance the ability of the providers of Personal Wireless Services to provide such services to the community quickly, effectively and efficiently.
- (7) Expedite the review process for those applications choosing the least intrusive alternative of deploying PWSFs.

It does not appear to only address the visual impact of the bracket holding the antenna to the structure, but rather the entire PWSF. So it would be clearer to address the entire PWSF.

704.59.1. *Applicability:* This section shall apply to all PWSF which are a principal use. All such ~~telecommunication~~ towers shall also comply with Sections 725 and 737. Accessory use antennas shall comply with Section 702.5.2 and Section 703 instead of

this section.

An existing principal use or structure shall not preclude the future installation of a principal use PWSF subject to compliance with this Code.

704.59.2. *Approval Types:* PWSF shall be approved by the type of permit required by the Matrix of Siting Locational Preferences in Figure 7-A. The Planning Director is authorized to allow a Monopole Telecommunications Tower with three (3) or more providers that normally requires approval of a Special Permit in the PR, NC or GC zoning districts to obtain approval by Administrative Permit upon a finding of minimal adverse visual and aesthetic impacts on surrounding properties.

704.59.3. *General Standards.*

Suggest the defined term be used.

704.59.3.1. *Permitted locations:* All ~~PWSFs~~ telecommunication towers shall be located landward of the five (5) foot contour line, and not within the Historic Preservation Overlay Districts, Historic Vista Protection Areas, Scenic Water View Protection Areas, and Velocity Zones.

For the purposes of this section the Scenic Water Protection Area shall be the following areas, provided they are not in an Extraction or industrial zoning district.

- Two thousand (2,000) feet from the Ordinary High Water Line of the County's bays.
- Two thousand (2,000) feet in width along both sides of the Manatee River.

704.59.3.2. *Collocation of PWSFs.*

A. Solely to the extent required by Section 365.172, Florida Statutes, the County shall grant or deny an application for a collocation permit for the collocation of a PWSF on property, buildings, or structures within the normal review time frame for a similar building permit, but in no case later than 45 business days after the date the application is initially submitted and deemed by the County to be a complete application in accordance with the requirements of this section. Such time frame shall begin to run when the Planning Department deems the application to be complete or as determined complete by section 704.59.3.10.

B. Antennas collocated with an existing PWSF of a design and configuration consistent with all applicable regulations, restrictions or conditions, if any, applies applied to the initial antenna array placed on the ~~PWSF tower~~ structure shall be permitted. Any regulation, restriction or condition that limits the number of collocations or requires a review process inconsistent with this section shall not apply. As part of such collocations, new accessory equipment shall be allowed within the existing compound.

The height of an existing telecommunication tower may be increased one time during the life of the tower by a maximum of forty (40) feet in order to accommodate collocation.

A telecommunication tower which is being relocated or reconstructed to accommodate collocation may be relocated within fifty (50) feet of its existing location with

The change proposed from the existing ordinance is not just switching to the term "PWSF." That change would preclude the placement of any antennas on existing structures in those areas. As this would constitute a prohibition of wireless facilities in the area, it would seem that this change should be reconsidered.

Since "collocation" is a defined term, it is less confusing to just call it a "collocation permit." The statute provides for the review time frame to be the same as other building permits but no later than 45 business days. The statute also provides that completeness is when it is found complete by the County or when the completeness time frame runs.

The statutory collocation provisions apply to collocations on all structures. As written, non-tower structures were not addressed.

Administrative Permit approval, provided that:

- The separation from residential uses and zoning districts shall not be diminished unless the required separation is maintained;
- Separation from other uses and zoning districts shall be maximized to the greatest extent possible; and
- The requirements for license described in Section 704.59.3.12.6, landscaping, and falldown radius are met.

If the above-referenced residential separation is not maintained, Special Permit review of the decreased residential separation shall be required. Moving the tower beyond fifty (50) feet, but not increasing the tower height, will still be reviewed as an Administrative Permit, but requires meeting all other ordinance provisions.

These changes are necessary to be consistent with the statute.

For a replacement tower that increases in height over the existing tower height, where the above-referenced residential separation is not maintained, Special Permit review of the decreased residential separation shall be required.

704.59.3.3. Separation

704.59.3.3.1. *Separation from Off-Site Uses.* All Telecommunications Towers shall be located in accordance with the following standards:

Adjacent Uses or Districts	Off-Site Residential	Setback from lot line of parent parcel
All Residential Uses and Districts	Residential	200 feet or 200% of the height of the tower whichever is greater

The Planning Director may reduce this setback to one hundred (100) percent of the tower height when the applicant demonstrates to the Director's satisfaction that service cannot be provided without this reduction. Conditions may be added to address adverse visual impacts.

704.59.3.3.2. *Separation from On-Site Uses* - A telecommunications tower shall be located a minimum distance equal to the falldown radius from any on-site residential use.

704.59.3.3.3. *Separation Between Telecommunications Towers (by Tower Type)* Either the Planning Director (for Administrative Permit), or the Hearing Officer (for Special Permits), may reduce the separation requirements set forth in 704.59.3.3.3, when the applicant demonstrates to either the Director or Hearing Officer's satisfaction that service cannot be provided without the modification. The following criteria shall be evaluated:

1. The reduction is limited to a fifty (50) percent reduction of the separation requirement.

Defined term.

2. The proposed location would not create a greater aesthetic-adverse visual impact on surrounding properties.
3. The reduction is not contrary to the public interest.

Proposed Tower Types*	Minimum distance from Monopole, Lattice, or Guyed
Lattice	2,500 ft.
Guyed	2,500 ft.
Monopole-85 ft. in height or greater	1,500 ft

* Camouflage towers are exempt from the separation between towers requirement listed above.

The requirement for separation between towers shall not apply to or be measured from towers erected by a Local Government, State, or Federal agency.

Towers located in the PDI, PDUI, HM, LM and EX zoning districts are exempt from these separation requirements.

This separation requirement shall not apply to towers proposed within one hundred (100) feet of an approved tower. This distance shall be measured from the outside edge of the tower structure, excluding guy wires for guyed towers. A maximum of three (3) towers may be clustered in an area under this provision.

704.59.3.3.4. *Separation from Arterial Roadways.* All new towers shall be set back from classified arterial roadways a distance equal to one hundred twenty-five (125) percent of the tower height, unless an engineering certification shows that in the event of collapse, the telecommunication tower is designed to collapse within a smaller area.

704.59.3.3.5. *Separation From Interstates.* All new guyed, monopole and camouflaged towers shall be set back from Interstate rights-of-way a minimum of one hundred twenty-five (125) percent of the tower height, lattice towers shall be setback a minimum of five hundred (500) feet from Interstate rights-of-way.

704.59.3.3.6. *Guy Wires Separation.* All guy wires shall be at least fifty (50) feet from all property lines.

704.59.3.4. *Site Development.* All new telecommunication towers sites shall be of a minimum size to provide collocation opportunities, and contain all required site improvements (i.e., landscaping, equipment cabinets, etc.). The developer or owner shall own or control by lease the land in every direction from the outer edge of the base of the telecommunications tower a distance equal to the tower height or falldown radius. The above area may be referred to as the leased parcel. The entire falldown radius shall either be within a recorded easement, or contained within the leased parcel, but in either case shall be contained entirely within the parent parcel.

Telecommunication sites shall not be used for the outside storage of materials or

equipment, or for the repair or servicing of vehicles or equipment.

All sites shall provide adequate ingress and egress for all emergency vehicles.

Exemptions.

Due to the nature of these facilities, all unmanned PWSFs may be allowed modifications of the requirements for paved driveways, off-street loading, off-street lighting, off-street parking, solid waste collection, potable water, and sewage collection requirements, as determined appropriate by the Planning Director.

704.59.3.5. *Landscaping and Screening.* The adverse visual impacts of ground mounted PWSF and facilities shall be mitigated from nearby viewers through landscaping or other screening materials at the base of the tower and ancillary structures.

A ten (10) foot wide landscape buffer shall be required around the perimeter of a telecommunication tower lease parcel and include the following features:

- Landscaping shall be installed on the outside of fences;
- A row of canopy trees, a maximum of forty (40) feet on center shall be planted in the buffer;
- A row of understory trees, a maximum of ten (10) feet on center shall be planted in the buffer;
- A continuous hedge shall be planted on the outside of the perimeter fence and tree line referenced above;
- Existing vegetation shall be preserved to the maximum extent possible. Where unique natural features provide vegetative screening which meets or exceeds the standards provided above, the Planning Director may approve an alternative landscape and screening plan upon determining that such plan meets the intent of these standards and meets or exceeds a plan in strict compliance.

It should be made clear that this provision only applies to facilities on the ground, rather than, for example, a rooftop.

704.59.3.6. *Appearance.* All PWSFs shall be located, designed, and screened, to the greatest extent possible, using materials, colors, textures, screening, and landscaping that will blend the facilities with the existing natural or built surroundings, as well as any existing supporting structures, to reduce adverse visual impacts.

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

Each application shall demonstrate that, to the greatest practical extent, the proposed facility is designed to limit the adverse visual impact on surrounding land uses and public views.

704.59.3.7. *Lighting.* Telecommunication towers or antennas shall not be artificially lighted unless required by the FAA or other applicable regulatory authority. If lighting is required, the lighting design which would cause the least disturbance to the surrounding properties shall be chosen.

The illumination of adjacent premises from security lighting of any associated equipment shelters or cabinets shall not exceed a value of one (1) foot candle measured in the horizontal or vertical plane at a point five feet inside any adjacent residential property. Lighting shall also comply with Section 723.

704.59.3.8. *Antennas.*

704.59.3.8.1. The maximum height of an antenna platform located on a roof top shall be ten (10) feet above the roof. All platforms shall be screened by parapet or other approved methods from major collector or higher roads, recreational areas, and adjacent residential district or uses.

704.59.3.8.2. An antenna may extend twenty (20) feet above the platform, telecommunication tower, roof, or alternative support structure that supports the antenna.

~~704.59.3.8.3. A radio frequency emissions test report showing compliance with the adopted Federal Communication Commission (FCC) standard shall be submitted with each rooftop antenna. The report shall address the amount, location, and effect of radio frequency on the rooftop and the occupancy below the rooftop.~~

This is inconsistent with the statutory provision (§365.172(12)(c), F.S.) that says local government cannot require evidence of compliance with federal regulations except FAA and evidence of FCC licensure.

~~704.59.3.8.4. Telecommunication facilities located on roofs shall not occupy more than fifty (50) percent of the roof surface of a building.~~

This is inconsistent with the statutory provision (§365.172(12)(a)1.c., F.S.) that prohibits the limitation of the number of collocations on a structure.

704.59.3.8.5. Antenna and antenna platforms may project beyond the building exterior walls upon approval of the Planning Director and Building Director.

704.59.3.8.6. The roof area where a PWSF is located shall be secured from the remaining roof area to prevent unauthorized access.

704.59.3.8.7. A report prepared by an Engineer indicating the tower or structure's suitability to accept an antenna shall be included with any application.

704.59.3.8.8. PWSF shall not interfere with or obstruct existing or proposed public safety and fire protection telecommunication facilities. Any interference and or obstruction shall be corrected by the applicant at no cost to the County.

704.59.3.8.9. *Utility pole mounted antennas.* The maximum height above the pole for a utility pole mounted antenna shall be twenty (20) feet.

Horizontal separation between utility pole mounted antennas shall be equal or compatible to the location and spacing of adjacent utility poles.

To the greatest practical extent, utility pole mounted antennas shall be located where they are concealed from the public view by other objects such as trees or buildings.

When it is necessary to locate a utility pole mounted antenna in public view, to the greatest practical extent, it shall be designed to limit adverse visual impact on surrounding land uses.

Equipment cabinets shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes. Equipment cabinets associated with utility pole mounted antennas which are outside of the rights-of-way shall meet setbacks for the zoning district where they are located.

To the greatest practical extent, equipment shelters located outside of the rights-of-way shall be concealed from public view or shall be architecturally designed or screened to be compatible and blend in with surrounding land uses or buildings.

704.59.3.9. *Construction Standards:*

704.59.3.9.1. All telecommunications towers shall provide a falldown radius within the parent parcel.

704.59.3.9.2. Telecommunication support facilities shall be the only structure, building, or use allowed within the falldown radius.

~~704.59.3.9.3. A radio frequency radiation emission test report, to demonstrate compliance with FCC adopted standards, shall be required for all rooftop antennas and other antennas which are less than thirty (30) feet above grade.~~

Same as
704.59.3.8.3.

704.59.3.9.4. Telecommunication towers shall be separated from overhead power lines, with a voltage exceeding seven hundred and fifty (750) volts, a distance equal to their height.

704.59.3.9.5. Telecommunication support facilities may not exceed twenty (20) feet in height.

704.59.3.10. *Application Processing*

1. *Timing.*

a. *New PWSF.* Solely to the extent required by § 365.172, F.S., the County shall grant or deny an application for a permit for the siting of a new non-collocation PWSF ~~or antenna~~ on property, buildings, or structures within 90 business days after the date the application is initially submitted and deemed by the County to be a complete application in accordance with the requirements of this section.

b. *Completeness Determination.* Solely to the extent required by § 365.172, F.S., the Planning Director shall notify the permit applicant in writing within the normal time frame, but in no case greater than 20 business days after the date the application is submitted or materials resubmitted as to whether the application is, for administrative purposes only, properly submitted, and completed in accordance with the requirements of this section.

The statute provisions apply to all applications, not just those for "permits." The 90 business days time frame only applies to the non-collocation applications. The term "PWSF" includes antenna, so that doesn't need to be stated separately. When the application is complete would be as determined by the next section, which may not necessarily be only when determined by the County.

The suggested changes are needed to meet the statute requirements.

Such notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed. If the County does not provide the written notification to the applicant within the 20 business days, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. A determination by the Planning Director that the application is complete shall not be deemed as an approval of the application.

- c. *Automatic Approval.* Solely to the extent required by § 365.172, F.S., if the County fails to grant or deny a complete application for a ~~permit~~ within the time frames set forth in Sections 704.59.3.10.1(a) and 704.59.3.40(b)2.A. of this Code, the application for the ~~permit~~ shall be deemed automatically approved and the applicant may proceed with the next step of the approval process or, for applications for building permits, with placement of the applied-for facilities without interference or penalty. The time frames set forth in Section 704.59.3.10.1.a. of this Code ~~and the automatic approval provisions of this subparagraph,~~ shall be extended in the event the application for the ~~permit~~ has not been granted or denied because the application is for an approval requiring action by a governing body or an appeal of an administrative determination is made to the Board of County Commissioners and such action has not taken place within the time frames set forth in Section 704.59.3.10.1.a. of this Code. Under such circumstances, the Board of County Commissioners must act to either grant or deny the application for the permit at its next regularly scheduled meeting, or, otherwise, the automatic approval provisions of this paragraph shall apply.
- d. *Time Frame Waiver.* To be effective, a waiver of the time frames set forth in Section 704.59.3.40 of this Code must be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an ~~entity seeking a permit~~ applicant, except that with respect to a specific permit application, a one-time waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.

The timeframes apply to all PWSF applications, not just those for permits. The automatic approval does not apply to the completeness time frame; not meeting that time frame just means the application is "complete" and ready for review. The statute has generally been interpreted to set a time frame for the automatic approval of just the requested application. This would mean that, unless it is an automatic approval of a building permit, the applicant would still need to go through the remaining review steps. The extension of the time frame is only for the 90 business days time frame.

704.59.3.11. Security.

704.59.3.11.1. PWSF shall be secured from access by the public and other unauthorized persons.

704.59.3.11.2. Towers shall be enclosed by a continuous six (6) foot high security fence. Barbed wire may be used on security fences in any zoning district, provided such barbed wire is limited to three (3) strands and is a minimum of six (6) feet above the ground. The gates shall be secured with a locking mechanism to prevent unauthorized access. A rapid access key box or other local fire district approved entry system shall be utilized.

704.59.3.11.3. Towers shall provide anti-climbing devices.

704.59.3.11.4. Alternative support structures shall be designed to prevent unauthorized access.

704.59.3.11.5. PWSF located on building roofs shall be secured from the remaining roof area to prevent unauthorized access.

704.59.3.11.6. *Signage.* No trespassing signs and in case of emergency contact signs shall be posted on each telecommunication facility adjacent to the entrance. No other signage is permitted, except as required for public safety purposes, as may be required by a government agency.

704.59.3.12. *Application requirements.* In addition to the requirements of Section 508, an application for a telecommunication facility shall contain:

704.59.3.12.1. Any reports, explanations, certifications, or other documentation required by Section 704.59.

704.59.3.12.2. Copies of ~~approvals~~ licensure from the Federal Communications Commission (FCC) and evidence of compliance with the applicable 14 C.F.R. s. 77 regulations of the Federal Aviation Administration (FAA), including any Aeronautical Study Determination, or other findings.

As addressed in the statute.

704.59.3.12.3. To allow the County to prepare a map or database of potential collocation opportunities, with an applicant's first application for a PWSF, ~~The~~ application shall include a tabular and map inventory of all the applicant's existing telecommunications facilities that are located within Manatee County, including the incorporated municipalities.

The only allowed purpose for this request is for the County's preparation of a collocation map (use to examine quality of coverage would violate the statute). Therefore, it only needs to be submitted the first time a new applicant applies for a wireless facility and can be updated by the County with each new application approval. To require the carrier's network information be put in the public record with each application serves no public purpose, but exposes that network to significant security and competitive risk.

~~704.59.3.12.4.~~ This inventory shall specify the location, height, type, and design of each existing telecommunication facility, the ability of the tower or antenna structure to accommodate additional co-location antennas, and where applicable, the height of the alternative support structures.

704.59.3.12.5. Coordinates of the facility shall be supplied in the Global Positioning System format or other format approved by the County;

704.59.3.12.6. A written instrument executed by the PWSF owner or operator and, in the case of a leased site, a written instrument executed by the lessor and lessee, binding their successors and assigns, in a form suitable for recording in the official records, granting Manatee County and its agents and employees a license to enter the real property on which the site is located and remove any abandoned telecommunication tower at the owner or operator's expense, subject to proper notice and a finding by the Code Enforcement Board that the tower has been abandoned.

704.59.3.12.7. In the case of a leased site, a lease agreement or binding lease memorandum which shows:

- (1) on its face that it does not preclude the site owner from entering into leases on the site with other provider(s); and

(2) the legal description and amount of property leased.

~~704.59.3.12.8. Copies of any Environmental Assessment (EA) reports, on Form 600 or Form 854 submitted to the Federal Communication Commission.~~

~~704.59.3.12.9. Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS).~~

~~704.59.3.12.10. A statement that the PWSF complies with the limits of radio frequency emissions standard set by the FCC; the statement shall list the particular FCC emission limits (MPE) and the tested or design limit for the proposed PWSF.~~

704.59.3.12.11. If lighting is required, a plan showing the lighting design.

704.59.3.12.12. If the PWSF is located in an easement, the owner of the easement and underlying property owner must authorize the application.

704.59.3.12.13. A certification prepared by an Engineer which provides the minimum falldown radius for the telecommunication tower.

~~704.59.3.12.14. A statement by the applicant indicating that government owned property is or is not available within the search ring for the PWSF. If government owned or other property within a locational preference in Figure 7-A of this section is available, the statement should include a full explanation if the applicant does not plan to locate on preferred locational property. A letter signed by the appropriate official of the governmental entity owning the property within a locational preference stating the unavailability of the property for a PWSF is acceptable for this statement. Alternatively, a notarized affidavit shall be submitted to the County that establishes that the location of the PWSF on government owned property or other property with a locational preference in Figure 7-A of this section would have the effect of preventing the applicant from providing wireless services to the intended coverage area.~~

704.59.3.12.15. Each application shall identify the zone district and location preference that the proposed PWSF is meeting. (Reference Figure 7-A of this section). If the proposed PWSF is not in a Preferred Zone or Preferred Location identified in Figure 7-A of this section, the applicant shall provide a map of the geographical area and a written discussion of sites within Preferred Zones or Preferred Locations that could potentially serve the same area as the proposed site and describe why each preferred site is not available for siting the PWSF. The written explanation shall address the proposed site as follows:

1. Meets the applicant's engineering requirements for the proposed PWSF;
2. Is of sufficient height to meet the applicant's engineering requirements;
3. Has sufficient strength to support the applicant's proposed antenna;

These are inconsistent with the statute (§365.172(12)(c), F.S.).

Although it is helpful for local governments to make their property available for PWSFs, it is not consistent with the statute to require the use of government property or to have other than land use based priority systems.

The intent is to encourage the use of preferred locations as well as preferred zones, so it is suggested they be addressed here.

4. Has sufficient vertical space to accommodate the applicant's antenna; and
5. Is available for lease under a reasonable leasing agreement, as determined by industry standards for the geographic area.

The applicant shall submit a notarized affidavit that establishes that the location of the PWSF on property that is in a Preferred Zone District or Preferred Location described in Figure 7-A would have the effect of preventing the applicant wireless provider from reasonably providing its wireless services to the intended coverage area. Additionally, the applicant shall provide a statement to support a finding by the approving authority that the proposed site is preferable or comparable in due to aesthetic and community character compatibility as compared to sites available in the Preferred Zone Districts or Preferred Locations in Figure 7-A.

704.59.3.12.16. A statement by the applicant as to whether construction of the telecommunication tower will accommodate collocation of additional antennas for future PWSF providers, including the collocation capacity.

704.59.3.12.17. A statement by the applicant demonstrating to the satisfaction of the County that no existing telecommunications tower, alternative support structure, building or other structure within the applicant's geographic search areas is available for siting the proposed PWSF as follows:

1. Meets the applicant's engineering requirements for the proposed PWSF;
2. Is of sufficient height to meet the applicant's engineering requirements;
3. Has sufficient strength to support the applicant's proposed antenna;
4. Has sufficient vertical space to accommodate the applicant's antenna; and
5. Is available for lease under a reasonable leasing agreement, as determined by industry standards for the geographic area.

704.59.3.12.18. In the event the applicant is requesting the siting of a PWSF in a residential zone district as a non-preferred zone district in Figure 7-A of this Code, the applicant shall submit with its application a statement with facts demonstrating that the applicant cannot reasonably provide telecommunication service to the residential area or zone from outside the residential area or zone district.

704.59.3.12.19. Visual Aids (digital format) of the proposed PWSF site showing predevelopment (existing) and post-development conditions. The visual aids shall show the closest public views of the PWSF from a minimum of four locations. The predevelopment visual aids shall be used to show post-development views of the PWSF (telecommunication tower, antennas, associate

The statute addresses the ability of the wireless provider associated with the application to reasonably provide its wireless services, not any wireless services. If the first document establishes the inability to provide the coverage, the finding statement can't be so restrictive as to still prevent the use of the non-preferred zones. It would seem reasonable to allow sites that have comparable compatibility.

support facilities, landscaping and security fencing). Post-development views shall include views of the PWSF as it would appear immediately after construction and may include views of 12 and 24 months after construction. The visual aids shall show the relationship and proximity to neighboring residential zone districts and uses and how the PWSF will appear from public viewpoints. The visual aids may be accompanied by a corresponding written adverse visual impact analysis prepared by the applicant. These requirements for visual aids are minimums and the County reserves the right to require additional visual aids as determined on a case-by-case basis.

704.59.3.12.20. *Experts*

- A. Where due to the complexity of the methodology or analysis required to review an application for a PWSF, the County may require a technical review by a third-party expert, the costs of which shall be borne by the applicant, which sum shall be in addition to PWSF development review fees established by resolution of the Board. The expert review fee shall be limited to specifically identified reasonable expenses actually incurred in the review. Applicants for a PWSF shall submit a deposit as determined by fee resolution towards the cost of such technical review upon written notification from the County that a technical review is required and shall remit any outstanding balance to the County for such review prior to issuance to a building permit for the PWSF. Any balance of the deposit not used in the expert review shall be reimbursed to the applicant upon completion of the review.
- B. The expert review may address any or all of the following:
1. The accuracy and completeness of submission;
 2. Applicability of analysis techniques and methodologies;
 3. The validity of conclusions reached;
 4. Whether the proposed PWSF complies with the applicable standards set forth in this section; and
 5. Other matters deemed by the County to be relevant to determining whether a proposed PWSF complies with the provisions of this section.
- C. Based on the results of the expert review, the County may require additional information or submittals from the applicant or impose conditions of approval.

Proposed changes are needed to be consistent with the statute.

704.59.3.13. *Annual Report.*

704.59.3.13.1. The owner or operator of a new or existing PWSF shall file annually on or before January 31 of each year, with the Planning Department a

PWSF Annual Report.

704.59.3.13.2. The PWSF Annual Report shall include the owner and operators names, address, phone numbers, contact person(s), type of antenna, applicable FCC Licenses numbers, applicable FAA Licenses, type of support structure (tower, alternative support), County approval numbers. Additionally reports submitted by Tower owner and operators shall also supply the number of co-locations positions designed, occupied, or vacant. The submission on a county form designed for such use shall be evidence of compliance.

704.59.3.13.3. Structural certification for new and existing telecommunication towers shall be submitted with the PWSF Annual Report on the tenth (10th) anniversary of the Building Permit issuance for the tower or the next PWSF Annual Report, whichever is later. The structural certification shall state general structural stability of the structure and the ability to add additional antennas to the tower. The PWSF Annual Report shall include a structural certification every five (5) years thereafter.

704.59.3.4. *Abandonment.* Any telecommunication tower which has no operational antenna located thereon for a period of six (6) months will be deemed to be abandoned, and therefore shall constitute a violation of this Code. The owner or operator of the abandoned telecommunication facilities shall be given six (6) months after being provided with a notice of violation to either reactivate or dismantle and remove the telecommunication facilities. In the event of the owner or operator's failure to comply with the County's request for removal, the matter may be referred to the Manatee County Code Enforcement Board for enforcement. Nothing herein shall be construed to limit the County's right to pursue any other legal remedy.

Preferred Zone Districts				
	Camouflaged, Max. 150'	Monopole with 3 or more providers, 200' Max.	Monopole Greater than 150', 200' Max.	Monopole less than 150'
Industrial				
EX	AP	AP	AP	AP
HM	AP	AP	AP	AP
LM	AP	AP	AP	AP
Agriculture				
A	AP	AP	AP	AP
A-1	AP	AP	AP*/SP	AP*/SP
Commercial				
CRV	<u>SP AP</u>	<u>X AP</u>	<u>X AP</u>	<u>X AP</u>
HC	AP	AP	AP	AP
GC	AP	AP/SP	AP	AP
NC-S	AP	AP/SP	SP	SP
NC-M	AP	AP/SP	SP	SP
Office				
PR-M	AP	AP/SP	SP	SP
PR-S	AP	AP/SP	SP	SP
Planned Districts				
PDEZ	<u>P AP</u>	<u>P AP</u>	<u>P AP</u>	<u>P AP</u>
PDPM	AP	AP	AP	AP
PDPI	AP/P*	AP/P*	AP/P*	AP/P*
PDI	AP/P*	AP/P*	AP/P*	AP/P*
PDMU	AP/P*	AP/P*	AP/P*	AP/P*
PDA	AP/P*	AP	AP/P*	AP/P*
PDRP	AP/P*	AP/P*	AP/P*	AP/P*
PDC	AP/P*	AP/P*	AP/P*	AP/P*
PDO	AP/P*	AP/P*	<u>X AP</u>	AP/P*
PDGC	<u>X AP</u>	<u>AP/P* SP</u>	<u>AP/P* SP</u>	<u>AP/P* SP</u>
PDUI	AP	AP/SP	AP/SP	AP/SP
Conservation				
CON - EPMP	AP	<u>SP AP</u>	<u>X AP</u>	<u>X AP</u>
Other-Preferred Locations:				<u>Review</u>
1)	Existing Structures, including but not limited to water tanks, utility towers and poles, transmission lines, traffic lights, and street lights.			<u>P/AP</u>
2)	Commercial and Industrial Buildings.			<u>P/AP</u>
3)	County or other Government Property.			<u>P/AP</u>
4)	Collocations			<u>P</u>

The references to this chart indicate that it addresses the required review process for Preferred Locations, as well as Preferred Zones, so the applicable review process needs to be added. The suggested review process for non-collocations reflects the encouragement of the use of existing structures through just building permit review, with administrative review only for any ground facilities.

Non-Preferred Zone Districts				
All Residential Zone Districts:	Camouflaged, Max. 150'	Monopole with 3 or more providers, 200' Max.	Monopole Greater than 150', 200' Max.	Monopole less than 150'
RSMH-6	SP1	X	X	SP1
RSMH-4.5	SP1	X	X	SP1
RMF-9	SP1	X	X	SP1
RMF-6	SP1	X	X	SP1
RSF-4.5	SP1	X	X	SP1
RDD-6	SP1	X	X	SP1
RDD-4.5	SP1	X	X	SP1
RDD-3	SP1	X	X	SP1
RSF-3	SP1	X	X	SP1
RSF-2	SP1	X	X	SP1
RSF-1	SP1	X	X	SP1
Planned Development:				
PDRV	X <u>AP</u>	X <u>AP</u>	X <u>AP</u>	X <u>AP</u>
PDMH	<u>AP/P*</u> <u>SP</u>	X	X	X
VIL	<u>AP</u> <u>SP</u>	X	<u>SP</u> <u>X</u>	X
PDR	<u>AP/P*</u> <u>SP1</u>	<u>AP1</u> <u>X</u>	X	<u>AP/P*</u> <u>SP1</u>
PDW	<u>AP/P*</u> <u>SP1</u>	X	X	X
All other <u>non-Preferred</u> Locations				<u>SP</u>

It is not clear what this means. Does it mean the PWSF is an Administrative Permit review if it meets the requirements of Section 704 and a Special Permit if it doesn't? The note below says that all towers have to meet Section 704, so would they all be AP review in the districts with AP/SP designations?

AP = Administrative Permit

SP = Special Permit

P = Permitted

X = No Permitted

AP/SP = Administrative Permit required as specified in Section 704 or elsewhere in this code.

AP*/SP = General Agricultural (A) and Suburban Agricultural (A-1) parcels smaller than ten (10) acres in size shall obtain approval by a Special Permit.

AP1 or SP1 = approval is limited to institutional, recreational, schools, and utility uses, all which have a lot area of eight (8) acres or more. Utility facility or sites may be less than eight (8) acres in size with approval of Planning Director.

P/AP = Permitted unless ground facilities are required, in which case the ground facilities require an Administrative Permit.

NOTE: All Telecommunication Towers shall be required to comply with Section 704, Conditional Use Criteria.

NOTE: Uses identified as "Permitted Uses" in all Planned Development District may be permitted with approval of a General Development Plan. PD zoning in itself does not constitute approval to develop.

NOTE: Uses may be further restricted or modified by the overlay district criteria in Section 604.

NOTE: Notwithstanding the development review procedures set forth in this Figure 6-1 or any other provision of this Code, the development review procedures required pursuant to Section 605 and Chart 605 shall control when the project requires Special Approval

pursuant to any provision of the Comprehensive Plan.

VIL District Note: All conditional uses within the VIL District shall meet the conditional use criteria for the VIL districts found in Section 704.

Development in the Cortez Village Historical and Archaeological overlay district may be limited by and is subject to special standards as contained in Section 604.6.8.

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IF YOU WISH TO ADDRESS THE BOARD DURING A PUBLIC HEARING ON TODAY'S AGENDA, PLEASE COMPLETE THIS FORM. THANK YOU.

Individuals wishing to speak on any Public Hearing matter must indicate so by filling out this form and returning it to the Clerk prior to the beginning of the Public Hearing.

PLEASE PRINT

Name Deborah Chapman
Address 7932 Broadmoor Pkwy
Bradenton FL 34243
Representing Palm Aire Homeowners
Public Hearing matter on which you want to speak:
LDX 704.59

8

Please check one for each #:

1. Are you in favor: *
opposed:

2A. Speaking as an individual? Yes

OR

2B. If you are speaking as an official representative of a group: **

Name of Group:

** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes No

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes No

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

#8

IF YOU WISH TO ADDRESS THE BOARD DURING A PUBLIC HEARING ON TODAY'S AGENDA, PLEASE COMPLETE THIS FORM. THANK YOU.

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PLEASE PRINT

Name CRAIG HARRISON
Address 6434 SHORN Creek Cir
BALMORON, FL
Representing Self
Public Hearing matter on which you want to speak:
8

Please check one for each #:

1. Are you in favor: *
opposed:

2A. Speaking as an individual? Yes

OR

2B. If you are speaking as an official representative of a group: **

Name of Group:

** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes No

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes No

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

#8

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PLEASE PRINT

Name Cynthia KAHN
Address 7834 Pine Trace Dr
34243

Representing _____

Public Hearing matter on which you want to speak:

_____ # 8

Please check one for each #:

1. Are you in favor: *
opposed:

2A. Speaking as an individual? Yes

OR

2B. If you are speaking as an official representative of a group: **

Name of Group:

** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes No

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes No

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#2

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PLEASE PRINT

Name JASON KOFENDGER
Address 301 N. Cattlemen Road, Suite 200
Sarasota, FL 34232
Representing Crown Castle

Public Hearing matter on which you want to speak:
Ordinance 09-60 Personal Communication services

Please check one for each #:

1. Are you in favor: *
opposed:

2A. Speaking as an individual? Yes

OR

2B. If you are speaking as an official representative of a group: **

Name of Group: Crown Castle

** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes No

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes No

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

8

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PLEASE PRINT

Name Madison Chapman

Address 7932 Broadmoor Pines Blvd
Bradenton, FL 34243

Representing _____

Public Hearing matter on which you want to speak:

LDC 70459 (158)

Please check one for each #:

1. Are you in favor: *
opposed:

2A. Speaking as an individual? Yes

OR

2B. If you are speaking as an official representative of a group: **

Name of Group:

** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes No

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes No

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

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Individuals wishing to speak on any Public Hearing matter must indicate so by filling out this form and returning it to the Clerk prior to the beginning of the Public Hearing.

PLEASE PRINT

Name GREGORY GALLAGHER

Address 7632 HARRINGTON LN
BRADENTON, FL 34202

Representing RIVER CLUB HOMEOWNER

Public Hearing matter on which you want to speak:
#5 ORD. 09-56

Please check one for each #:

1. Are you in favor. *
opposed:

2A. Speaking as an individual? Yes

OR.

2B. If you are speaking as an official representative of a group: **

Name of Group:

** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes No

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes No

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.



Fw: Cell Tower Ordinance
Joe McClash to: Bobbi Roy, Julie Bassett
Sent by: **Shirley Talley**

01/05/2010 04:13 PM

----- Forwarded by Shirley Talley/MCG on 01/05/2010 04:11 PM -----

From: "Lyons Beaudry Mail" <craig@lyonsbeaudryharrison.com>
To: <shirley.talley@mymanatee.org>
Date: 12/31/2009 11:46 AM
Subject: Fw: Cell Tower Ordinance

Shirley:

Can you provide the attached to Commissioner McClash.

I will provide some input on the proposed ordinance on Monday.

Thank you.

Wishing everyone a happy and healthy new year.

Craig Harrison

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----- Original Message -----

From: Rusty Monroe
To: 'Lyons Beaudry Mail'
Sent: Wednesday, December 30, 2009 3:48 PM
Subject: RE: Cell Tower Ordinance

Dear Craig:

Attached is the information you requested. However, I'd strongly recommend that anyone interested in who we are, what we do and what the real issues are visit our web site at www.telecomsol.com. There's a lot of information there that I'm told by others is 'impressive' and informative. I'll look at the proposed ordinance you sent and in the meantime, please do ask them to call, as it's apparent they really don't know what they're doing and are likely to get themselves in either a legal bind or a political bind without meaning to do so; both of which are preventable.

I'll wait to hear from you and have a great New Years weekend.

Rusty Monroe

The Center for Municipal Solutions
3113 Billiard Ct.
Wake Forest, NC 27587
Office: (919) 266-5990
Mobile: (518) 573-8842
Fax: (919) 266-5965
E-Mail: lmonroe8@nc.rr.com
Web Site: www.telecomsol.com

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From: Lyons Beaudry Mail [mailto:craig@lyonsbeaudryharrison.com]
Sent: Wednesday, December 30, 2009 3:35 PM
To: lmonroe8@nc.rr.com
Subject: Fw: Cell Tower Ordinance

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----- Original Message -----

From: ppetruff@dyefirm.com
To: Craig Harrison ; Cecilia Harrison ; Gregory Gallagher
Sent: Wednesday, December 30, 2009 9:06 AM
Subject: Fw: Cell Tower Ordinance

Fyi

Sent via BlackBerry by AT&T

From: bobbi.roy@mymanatee.org
Date: Wed, 30 Dec 2009 08:45:16 -0500
To: <ppetruff@dyefirm.com>
Subject: Cell Tower Ordinance

Patty,

Here is the latest ordinance I have gotten. When I get the entire package pulled together this morning I will send that to you as well.

Thanks,
Bobbi Roy, Project Coordinator
Manatee County Planning Department
1112 Manatee Avenue West, 4th Floor
Bradenton, Florida 34205
941-748-4501X6878



Fax: 941-749-3071 [Regulating Towers and Wireless Facilities.doc](#) [Rusty's CV.doc](#)



The Center for Municipal Solutions

Office: (919) 266-5990 Mobile: (518) 573-8842 or (919) 622-5448

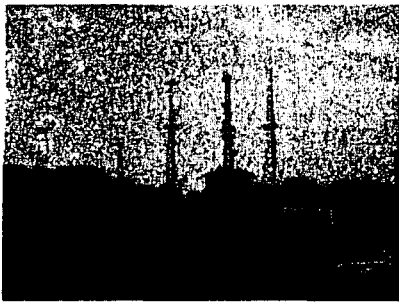
E-Mail: Lmonroe8@nc.rr.com or Hicksja@nc.rr.com

Web Site: www.telecomsol.com

Is this issue something you have a 'burning desire' to handle yourself, in-house?
Why not let the nation's most experienced public sector experts help you?

We can make this issue simple and place you truly in control of the situation . . . and it won't cost you a dime.

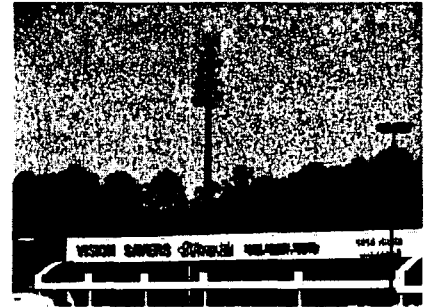
You can prevent these situations and still get excellent service. Compare them to the photos below.



Georgia



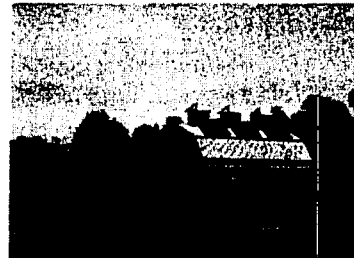
North Carolina



Georgia (This is ridiculous)

Below is a tower we sited for a community in the Adirondack Mountains and another facility we did in a small rural community where the average annual income is 7 figures.

Can you tell which one is the tower? Can you find the cell site in this photo?



Questions you should ask . . .

- > **What's coming?** There are at least 30,000 new towers and wireless facilities to be built in North Carolina in the next several years? That's an average of *300 more per County* . . . and there will be at least as many more following that.
- > **Are you truly prepared** to deal with this matter as a permanent infrastructure issue? It's not going to go away over time.
- > **Are your regulations up to date**, reflective of the developing technologies, new State legislation, case law, newly developed alternatives to towers and expressly protecting your right to require proof of need for what's requested and not necessarily as opposed to what the tower company claims is needed?
- > **Do you have the needed expertise in-house**, such as professional engineers (structural engineers, RF engineers, etc.).
- > **Do you know all** of the alternatives to a tower and if one would work or not work in a given situation?
- > **Do you want to eliminate the political element** from this matter? Do you know how to?
- > **Is your staff truly qualified to deal as equals** with the industry's engineers and other experts?
- > **Did you know there are more than 20 separate issues and factors that need to be analyzed** when permitting a cellular facility, whether it's a new tower or a co-location on an existing structure?
- > You've probably been told that under the new State law you must allow towers built on 'speculation' to be built (i.e. with no carrier and just guessing where a tower may be needed). Did you know that this is not true and you don't have to allow spec towers to be built?

(See Other Side for Details)

Did you know that, at absolutely no cost to you ever, you can have the following?

An ordinance (customized for your community) that:

- is based on the preeminent ordinance of its kind in the State and nation;
- is in place in more than 2,000 communities;
- has been reviewed by hundreds of attorneys; both municipal and industry attorneys;
- has never been successfully legally challenged in whole or in part in more than a decade;
- is *guaranteed* to place you in control of this entire issue;
- reflects the latest industry technological trends, siting trends, applicable cellular case law, State law and the wireless industry's *real* agenda

This is what CMS can do for you . . . at absolutely no cost to you ever.

- Provide an individually-customized ordinance that is taken from what is generally acknowledged as the pre-eminent model of its kind in the nation:
- Review all applications for Towers and Wireless Telecommunications Facilities and provide a written recommendation;
- Attend all meetings with the Applicants and/or staff or officials as needed;
- Create the written record that's required under federal law, including recommend in writing whether a particular application should be approved or disapproved, and set forth in writing the reasons for such approval or disapproval;
- Handle Inspections of the construction of the facility and in writing recommend when the Certificate of Compliance should be issued.
- Handle the negotiation of leases for the use of Client-owned property or facilities by wireless communications entities at its normal hourly rate, with the cost to be paid by the Lessee.

CMA has the largest and most experienced team of experts in the nation (having done more than 2,000 application reviews); and is a

'1-Stop-Shopping' organization comprised of a team of experts in all the needed fields, including attorneys, structural engineers, RF engineers, planning and zoning specialists, former cellular company COO, and a former EVP of one of the nation's largest privately-owned telecommunications companies.

Thinking about trying to draft the regulations in-house? Ask yourself, *How can someone write an ordinance regulating an issue about which they're not experts? Why would anyone not want an ordinance that has*

- i) **never been successfully challenged in whole or in part**
- ii) **is written by the most experienced experts on the public sector side in the nation;**
- iii) **is assured to place the Community in control (to the extent it wishes to exercise that control);**
- iv) **served as the model for more than 2,000 communities;**
- v) **has been reviewed by hundreds of attorneys;**
- vi) **was written by the experts who negotiated the final version of the new state law that the ordinance is necessitated by and are the only ones who first-hand know what the intent of each and every word is; and**
- vii) **never cost a community a dime.**

Communities search long and hard for the best case scenario that we provide . . . and seldom find it.

To do anything else would be to reinvent the wheel and make less than informed decisions not knowing all your options.

Given all of this and the fact that it's COST FREE to you . . . Why wouldn't you want help?

Again, ask yourself

Is this something we have a 'burning desire' to handle in-house and do we truly have the in-house technical expertise?

CURRICULUM VITAE OF LAWRENCE (RUSTY) MONROE

My name is Lawrence (Rusty) Monroe. I am the owner of Monroe Telecom Associates, LLC (MTA) and co-founder of the Center for Municipal Solutions ("CMS"), a dba for MTA, which provides services exclusively to local governments relative to the regulation of the siting, placement, construction, and modification of wireless telecommunications facilities.

I hold a Bachelor of Arts degree from Penn State University and have thirty-three (3) years of experience in the cable and telecommunications industry, including being responsible for overseeing the siting and construction of a number of towers in several states. I have attended numerous educational and training seminars on a plethora of aspects of telecommunications.

I have drafted and designed wireless siting ordinances that are now in effect in more than six hundred (600) client communities in thirty (30) states and have been copied and adopted in one form or another in what I have been told are hundreds of other communities and not infrequently encounter them in new client communities. I have reviewed and analyzed scores of other wireless ordinances. I have reviewed and analyzed and/or been responsible for the review and analysis of at least one-thousand (1,000) applications for towers and/or wireless facilities and have inspected the construction of most of these facilities. The "siting process" used by CMS, including the preparation of a regulatory ordinance and review of applications and site construction several years ago were endorsed "services" of the Pennsylvania State Association of Township Supervisors and the West Virginia Municipal League.

I have been asked, as an expert, to conduct seminars at numerous conferences for local governmental organizations as relates to the regulation of the siting, construction, modification and permitting of towers and wireless facilities. Some of these organizations include: the National Institute of Municipal Lawyers Association (the predecessor of the International Municipal Lawyers Association); the National Association of Telecommunications Officers and Advisors (NATOA); the North Carolina Association of Planners; the New York State Association of Towns; The New York State Supervisors and County Legislators Association; The South Carolina Association of Counties, The Florida Municipal League; The Florida City and County Managers' Association; The Florida Association of Counties; The Florida Institute for Government; The

Pennsylvania State Association of Township Supervisors; the Alabama Association of Mayors and City Clerks; the Alabama Revenue Officers Association and numerous other municipal and county organizations. By request I have also conducted seminars on these subjects for scores of individual local governments and regional Councils of Government (COG's).

Neither my work, nor the work of CMS (for which I am responsible), nor our Model ordinance (in place in more than 2,000 communities in one form or another) has ever been legally successfully legally challenged in whole or in part.

I have also served as an expert in assisting in the negotiation of several pieces of critical legislation, both on the federal and state levels and having those aspects onerous to local governments removed and/or changed, most recently in the States of North Carolina, Alabama and Georgia and in Georgia just recently drafted proposed legislation.



Fw: Ordinance 09-60
Joe McClash to: Bobbi Roy, Julie Bassett
Sent by: **Shirley Talley**

01/05/2010 04:02 PM

----- Forwarded by Shirley Talley/MCG on 01/05/2010 03:59 PM -----

From: J Woodson <woodsoj@gmail.com>
To: donna.hayes@mymanatee.org, carol.whitmore@mymanatee.org, joe.mcclash@mymanatee.org
Date: 01/01/2010 07:25 AM
Subject: Ordinance 09-60

The Commission is proposing an ordinance to prohibit cell tower installation in residential neighborhoods, which is good. However, I feel it may impact Amateur radio.

A proposed inclusion in the ordinance has been suggested. I support the Manatee County ham operators and the ability to be there when we need the the most, I hope you do also.

Please support the following inclusion in Ordinance 09-60, to specifically exempt private use services including Amateur Radio, which is already well regulated by Federal, State, Local, and HOA rules:

Sec 7, Applicability

"Exemption:

Amateur radio Antennas and any Tower to support the Antenna that is owned and operated by a federally licensed amateur radio station operator used exclusively for noncommercial purposes."

I can not be at the meeting because of the time of day, but I thank you for your consideration of my request.

Jim Woodson
703 46th St E
Bradenton, FL 34208
745-1485



Fw: [SPAM]: Comment on Proposed Ordinance 09-60

Joe McClash o Bobbi Roy, Julie Bassett

01/05/2010 04:04 PM

Sent by: Shirley Talley

History: This message has been forwarded.

— Forwarded by Shirley Talley/MCG on 01/05/2010 04:02 PM —

From: CPTHaines@aol.com
To: joe.mcclash@mymanatee.org
Date: 01/01/2010 11:21 PM
Subject: [SPAM]: Comment on Proposed Ordinance 09-60

Dear Commissioner McClash

It has been brought to my attention that the Board of County Commissioners proposes to enact legislation affecting the placement of Cellular Towers within Manatee County. I have read the proposed ordinance and I am quite frankly dismayed. As an amateur radio operator licensed by the federal government, my antennas fall under the laws enacted by both the federal and state authorities. This law, loosely referred to as PRB-1 prohibits any state, county or municipal authority from enacting any legislation regarding the antennas and antenna support structures of amateur radio licensees which would unfairly restrict them. The proposed Manatee County ordinance would do just that. I strongly suggest that an exemption be written into the proposed ordinance to cover the antennas and antenna support structures of federally licensed operators where no commercial activity is conducted. An example of such a provision is here:

Sec 7, Applicability

"Exemption:

Amateur radio Antennas and any Tower to support the Antenna that is owned and operated by a federally licensed amateur radio station operator used exclusively for noncommercial purposes."

This wording is taken from the regulations of several ordinances passed by other counties in the region. As the writer of a presentation to the amateur radio community on the very subject of tower regulation, I can assure you that this wording is necessary to avoid preemption by state and federal statute, which will negate the very effect you are working for.

The amateur radio community in Manatee County is a valuable resource to the county and it's residents. Indeed the county itself currently own at least three amateur radio repeaters to facilitate communications in time of emergency. These are located on top of the county administration building, Blake Hospital and the water tower near the dam. Without the exemption I and others propose, the future of assistance to the county with emergency communications as the area grows may be severely impacted.

I am available at your convenience to discuss this proposed ordinance. I would also like to be able to voice my concerns at the public meeting on January 7th at 9:00AM.

My telephone number is 941-752-3696

Sincerely,

Geoff Haines, N1GY
President, WCFG (NI4CE.org)
Asst. Section Manager, WCF-ARRL
Technical Coordinator, WCF-ARRL
Past President, Manatee ARC Inc.



Fw: Cell Tower Ordinance
Joe McClash to: Debbie Bassett
Sent by: Shirley Talley
Cc: Marianne Lopata

01/06/2010 02:06 PM

----- Forwarded by Shirley Talley/MCG on 01/06/2010 02:03 PM -----

From: "Lyons Beaudry Mail" <craig@lyonsbeaudryharrison.com>
To: <joe.mcclash@mymanatee.org>
Date: 01/06/2010 10:48 AM
Subject: Cell Tower Ordinance

See attached Memorandum relating to the newly proposed ordinance relating to wireless services.

Craig Harrison

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copies of this message. Memorandum - Manatee County Cell Tower Ordinance.pdf

MEMORANDUM

To: Manatee County Commission

From: R. Craig Harrison
Lyons, Beaudry & Harrison P.A.

Subject: Cell Tower Ordinance

Thank you for your efforts to revamp the current Manatee County Ordinance relating to the construction of telecommunication structures in Manatee County.

I have reviewed the draft ordinance and have suggested changes thereto. I also want to provide some general background on the Federal Telecommunications Act (TCA) as the cell tower companies have distorted its reach and impact.

1. **The County can properly deny a Wireless Communication Facility (WCF) based upon its “ aesthetic impact”.**

It is absolutely clear that a municipality can deny the placement of a WCF – anywhere – based upon its **visual impact or aesthetic impact** upon the surrounding area - so long as the county ordinance permits the County to consider a WCF’s aesthetic and/or visual impact.

In the recent case *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F3d 716, 2009 WL 3273935 (9th Circuit October 14, 2009), the 9th Circuit Court of Appeals upheld the City’s denial of a WCF in both a residential area and at the main entrance of the city - based **solely** upon its adverse aesthetic impact.

There, the City Ordinance provided that a WCF may be denied for “adverse aesthetic impacts arising from the proposed time, place and manner of use of the public property.”

The City council denied the proposed placement of the WCF along a neighborhood street as it would disrupt the residential ambiance of the residential neighborhood. The proposed WCF at the main entrance to city was denied because it would detract from the natural beauty of the city.

The Court held that the City’s determination that the WCF would detract from the residential character of the neighborhood and affect the aesthetic make up of the city entrance **easily** satisfied the “substantial evidence” standard of the TCA.

The Court found that additional factors such as height, proximity to residential structures, nature of nearby properties, surrounding topography and surrounding tree coverage are legitimate

zoning concerns for a locality.

The 11th Circuit (which governs Florida, Georgia, Alabama) has also held that a municipality can deny a WCF base solely on aesthetic grounds.

In *Southeast Towers, LLC v. Pickens County, Ga.*, 625 F.Supp.2d 1293 (N.D.Ga.,2008), the court held that the aesthetic or visual impact of a WCF alone constituted substantial evidence under the TCA to deny the WCF.

In *Southeast Towers*, the WCF was not proposed in a residential neighborhood, but its visual impact affected a residential neighborhood. The WCF was proposed on a 19.7 acre parcel located outside of the Village of Tate which contained historical homes.

The City denied the WCF because of its visual impact upon the residential historic district. At the public hearing individuals testified as to specific concerns as to the aesthetic effect of the WCF on their residential properties. Photographs of a balloon test evidenced that the WCF would be visible to at least 6 historic homes. (This is why, in the River Club matter, Vertex advised Patty Petruff at 11:30 AM, that a balloon test had been ongoing from 7:00 AM and would conclude at 12 o'clock noon – 30 minutes after the notice. Vertex and its attorney wanted to preclude evidenced of the visual impact of the balloon test.)

The Court held that the denial of the WCF based upon its aesthetic impact was not prohibited by the TCA:

Nothing in the Telecommunications Act forbids local authorities from applying general and nondiscriminatory standards derived from their zoning codes, and ... aesthetic harmony is a prominent goal underlying almost every such code.

In upholding the denial of the WCF, the court held:

The decision was not based upon merely general objections to the aesthetic appeal of a telecommunications tower; rather, photographs and specific supporting testimony demonstrated that the proposed tower would have a specific and material impact on the landscape and buildings within the Historic District.

Accord: *T-Mobile South LLC v. City of Jacksonville, Fla.*, 564 F.Supp.2d 1337(M.D.Fla.,2008)[Treed buffer between WCF and residential to be torn down for development; and thus, WCF incompatible with neighboring residential community] ; *American Tower, LP v. City of Huntsville*, 295 F.3d 1203 (11th Cir. 2002) [WCF to be located in a residential neighborhood near schools and soccer fields] ; *Michael Lynette v. Village of Wilmington*, 408 Fed.3d 757 (11th Cir. 2005)[WCF to be located on golf course within residential community].

Recommendations:

- A. Insert the phrase "aesthetic quality" to Purpose number (4).
 - B. Provide specific language that the County, in its discretion, may deny WCF based upon its adverse aesthetic impact upon a community and/or the other listed factors in the proposed ordinance.
 - C. See additional proposed changes below .
2. **A Wireless Communication provider is not entitled to the placement of a WCF (in any zoning district) under the TCA unless it proves:**
 - a. **A significant gap in its service coverage and**
 - b. **There exists no technologically feasible alternative, feasible site or facility locations or other potential solutions to solve the significant coverage gap.**

This burden of proof is a "heavy one" for the provider. *Voice Stream PCS I, LLC v. City of Hillsboro*, 301 F. Supp 2d, 1251 (D.C. Oregon 2004); *Powertell/Atlanta, Inc. v. City of Clarkston*, 2007 Westlaw 2258720 (N. D. Georgia Aug. 3, 2007) and extremely fact intensive. *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F3d 716, 2009 WL 3273935 (9th Circuit October 14, 2009). The gap must be truly significant. *Sprint PCS Assets, LLC*, Supra.

A significant gap does not exist just because there is "dead spots" in a coverage area. C.F.R. Section 22.99 defines dead spots as: "Small areas within a service area where the field strength is lower than the minimum level for reliable service. Service within dead spots is presumed." The quest of a provider to improve existing indoor coverage does not constitute a significant gap in coverage. *Voice Stream PCS I, LLC*, Supra.

If there exists a significant gap in coverage, then the provider must also demonstrate that "its existing application is the only feasible plan and ... there are no other potential solutions to the purported problem. *Second Generation Properties, L.P. v. Town of Pelham*, 313 F3d 620 (1st Cir. 2002); *Voice Stream PCS I, LLC*, Supra; *Powertell/Atlanta, Inc. v. City of Clarkston*, Supra. In essence, the provider has the burden to show the lack of available and technologically feasible alternatives. *Sprint Telephony PCS, L.P. V. County of San Diego*, 543 F3d 571 (9th Cir. 2008); *Metropcs, Inc v. City and County of San Francisco*, 400 F.3d 715 (9th Cir. Ct 2005).; *APT Pittsburgh Ltd. Partnership v. Penn Tp. Butler County of Pennsylvania*, 196 F.3d 469, (3rd Cir 1999).

Therefore, if a provider seeks to place a WCF in a residential district or affects a residential district, the municipality can ascertain whether the alleged service gap is real and truly significant and require the provider to demonstrate that there are no other solutions to the proposed WCF.

The proposed ordinance at 704.59.3.12.15, 704.59.3.12.17, 704.59.3.12.18, 704.59.3.12.19 and 704.59.3.12.20 is an attempt to require an applicant to address alternate solutions to coverage issues, but has some faults which are address below:

A. 704.59.3.12.15

1. This section does require the provider to provide a list of alternate sites and why such site is not available for the PWSF. However, the provision permits the provider to address each propose site based on the providers **own engineering requirements**.
2. The section also requires a provider to address only whether the site is available for lease under **reasonable leasing agreement, as determined by industrial standards in the geographic area**. First, the provider should also consider sites available for sale. *Powertell/Atlanta, Inc. v. City of Clarkston*, Supra [The provider could purchase a piece of property to build a telecommunication structure]. Second, whether rent in a Preferred or Non-Preferred is greater than "industrial standards" should not disqualify the site from consideration. And requiring a provider to "acquire" such a site for the PWSF is not a violation of the TCA.
3. The section does not address alternative technology that is currently available such as DAS systems, Femtocells, Picocell towers and systems and other technological advancements.

The companies marketing these systems would very likely attend any work shop or meeting to advise the commission on these technologies. These technologies are not sought or offered by companies such as Vertex which is in the business of building towers.

4. The Section seems to require the applicant to define the proposed coverage area, but does not specifically provide the same. It is unclear as to what "identify the zone district and location preference" means.

The following could be added to the Section to require the applicant to:

Provide a narrative description and map showing the coverage area of the provider's existing facilities and the proposed coverage area of the specific site that is the subject of the application.

5. This Section could further provide as follows:

Each application shall provide written technical information explaining the reasons

why a permit is being sought (for example, the PWSF is necessary to accommodate to fill a “significant gap” in the provider’s coverage area), why the subject site is considered necessary to accomplish the provider’s gap coverage objectives, and why the proposed site is the most appropriate location under existing circumstances, a discussion of Preferred Zone sites (if the proposed location is in a Non-Preferred Zone) that could potentially serve the same coverage area and why each Preferred Zone site was not technologically or legally feasible and that there are no other technologically or legally feasible available alternatives to accomplish the gap coverage objective.

B. 704.59.3.12.18.

This Section requires the applicant to provide a statement when a PWFS is sought in a non-preferred zone demonstrating why the applicant cannot **reasonably** provide service from outside the non-preferred.

Instead of the term **reasonably**, the section should require the applicant to demonstrate that the:

Preferred Zone site was not technologically or legally feasible and that there are no other technologically or legally feasible available alternatives to fill the applicant's claimed “significant gap” in its coverage in the non-preferred zoning district.

C. 704.59.3.12.20

This Section permits the County to retain a third-party expert to review the application.

It does not specifically provide the specific authority to permit the expert to examine other alternative sites or alternative technologies.

For instance the following could be incorporated into this section.

The County may further require:

1) A report by an approved radio frequency engineer or licensed electrical engineer specializing in radio frequency radiation (RFR) studies (hereinafter, “an approved engineer”), retained by the County, verifying that the site is necessary for the purpose stated in the provider’s explanation of reasons for seeking the permit. If deemed necessary by the engineer, such information shall include documentation of any facility sites, in Manatee County and abutting jurisdictions, in which the provider has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such facility site identified by the engineer, at the request of the engineer, the

provider shall demonstrate that these sites are not already providing wireless coverage in Manatee County.

2) An Alternatives Analysis, either submitted by the applicant and subject to independent review by the County, or obtained by the County from its retained expert, which shall at a minimum:

a) Identify and indicate on a map, at a minimum, two (2) viable technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and non-preferred zone districts which could eliminate or substantially reduce the need to locate in a non-preferred zone district. If there are fewer than two (2) such alternative locations, the applicant must provide evidence establishing that fact. The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the need for such a location. Where appropriate the applicant shall be required to evaluate the potential use of one (1) or more microcell sited (i.e., smaller facilities often mounted upon existing or replacement utility poles) and other technological alternatives, and the use of repeaters in lieu of the proposed facility. Radial plots of all repeaters or other alternative facilities considered for use in conjunction with these facility sites shall be provided as part of the alternative analysis. For each alternative location so identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative impacts (e.g., the use of stealth camouflaging techniques).

b) Evaluate the potential for co-location with existing PWSF as an alternative to the proposed facility.

c) Evaluate the potential for use of inter-carrier roaming agreements as an alternative.

d) Compare, across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed site with those of each of the identified technically feasible alternative locations and facility designs, and all technically feasible inter-carrier roaming agreements. Such comparison analysis shall rank each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives) in terms of impacts (i.e., from least to most environmentally damaging), and shall support such ranking with clear analysis and evidence.

e) Include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives).

f) Document good faith and diligent attempts to rent, lease, purchase or otherwise obtain the use of at least two (2) of the viable, technically feasible alternative sites which may be environmentally equivalent or superior to the proposed

project site. The decision-making body may determine that an alternative site is not viable if good faith attempts to rent, lease, purchase or otherwise obtain the site have been unsuccessful.

- D. 704.59.3.12.14 Requires the applicant to state that the government owned property is not available in the **search ring**.

I submit that there will NEVER be a government owned property in any "search ring"

For instance the "search ring" at the River Club project was: a radius of - 900 feet.

Thus, it is doubtful that any governmental property would be located in the search ring.

3. **A PDR is created by agreement between the developer and the County. Uses, restrictions, development standards , ect. are voluntarily approved by and stipulated to by these parties creating vested rights and obligations in third parties. A PWSF applicant must not only meet the new proposed PCS ordinance, but must also meet the rezone criteria and other applicable code criteria.**

A PDR is different than a regular zoning district. The County creates the zoning district, but both the developer and the County voluntarily agree to a PDR district together with its uses, stipulations and restrictions. These restrictions, stipulations and agreements run with the land and create vested rights in those that purchase properties or make investments within the PDR. These regulations and the vested rights created thereby cannot be amended unless there has been a significant change in the development. There are a different set of rules if an applicant requests the placement of a PWSF in a regularly zoned parcel, as opposed to a planned parcel where the owner has placed voluntary restrictions on the land.

I further agree with Attorney Patty Petruff, who had opined as follows:

I have reviewed the proposed cell tower ordinance and I am still unclear what process will be followed if a cell tower is proposed in an existing project which is zoned PDR. Note 2 of Figure 7-A states that if a tower is proposed in a non preferred zone(residential) with planned development zoning then the GDP/PSP must be amended. Unfortunately, that note does not state which sections of the LDC are applicable in this instance or whether the criteria in Section 504.5 will

apply. It also does not address that there are differences in the list of approved uses in each approved planned development district. Nor does it take into account that the GDPs and PSPs in older PDR projects have long since expired. It is my opinion that if a new use of "personal wireless service facility" is being added to an existing PDR project which does not list that use as one that is a permitted use in that development that Section 603.4.1.2 should apply. This is especially true for projects which are built out without active site plans. The language in Section 603.6.4 which addresses when new GDP plans are required should also be revised to reflect that any new uses added to a PD project must meet the criteria of Section 504.5.6.4. I think adding a new use to an existing site specific zoning without meeting the rezone criteria creates a flawed process. If it is the intent of this ordinance that cell towers can be added to an existing PDR projects via a public hearing that only addresses conditional use criteria and not rezone criteria then the advertisement for this ordinance is inadequate to place all the owners of homes in the myriad of PDR projects in this county on notice that a personal wireless service facility can be placed somewhere in their project. The proposed ordinance also does not address what happens in DRIs level projects.

4. **The defined term Radio Frequency Engineer should omit the phrase "otherwise qualified". Under Florida law a person is either an Engineer or not an Engineer. The County should require an Engineer to certify and provide information, not some technician.**

5. **The fall down radius should be based on the height of the tower and not reduced to a smaller area based on an engineering collapse zone.**

Unless it can be conclusively established by the industry that towers 100% of the time fall within a proposed smaller engineered radius (collapse zone), the fall down radius should be defined based on the height of the tower.

If you carefully reviewed the River Club application, the engineer stated that a tower **could** be designed to collapse into a smaller radius. After the initial approval of a tower, there is no provision to insure that such a design is actually made or if it is actually feasible.

This is of particular importance where the proposed code at **704.59.3.3.4 has been amended to** reduce the setback from public and private roads to this smaller radius. This is a safety concern to all Manatee County residents.

6. **The following are further suggested changes to the proposed ordinance, which was submitted to the Planning Director in December, 2008 and May, 2009.**

702.5. Maximum Building Height.

702.5.3. Telecommunication Height Exclusions Provisions . ~~The district height limitations of this Code shall not apply to telecommunications towers, antennas, or facilities which are a principal use~~ telecommunication facility (building or ground mounted) shall not exceed ten (10) feet about the basic maximum building height prescribed by the zoning district in which the site is located.. Telecommunication towers and antennas shall comply with Section 704.59.

704.59.3.2. Co-location of PWSF: After new subparagraph B add:

~~The~~ Except in non-preferred districts , the height of an existing telecommunication tower may be increased one time during the life of the tower by a maximum of forty (40) feet in order to accommodate co-location.

704.59.3.4 Site Development Standards. The following general development standards shall be met by all new PWSF:

- a. New PWSF shall be co-located with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable to minimize overall visual impact. Service providers are encouraged to co-locate antennas with other facilities such as water tanks, light standards, and other utility structures where the co-location is found to minimize the overall visual impact;
- b. PWSF shall be sited to avoid any unreasonable interference with views from neighboring properties, and where their visual impact is least detrimental to scenic vistas.
- c. All PWSF shall be screened in one of the following ways:
 - 1) Substantially screened from the view of surrounding properties and the public view or co-located with existing facilities or structures so as not to create substantial visual, noise, or thermal impacts;
 - 2) Sited within areas with substantial screening by existing vegetation;

- 3) Designed to appear as natural features found in the immediate area, such as trees or rocks, so as to be unnoticeable (stealth facilities); or
- 4) Screened with additional trees and other native or adapted vegetation which shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations, where such vegetation is deemed necessary to screen the facilities. Such landscaping, including irrigation, shall be installed and maintained by the project sponsor, as long as the permit is in effect or to the extent permitted by law.

d. Where the County finds that proposed PWSF have the potential to create a significant impact to the surrounding area or neighborhood, the County may require an independent, third-party review, at the expense of the applicant, to identify potential impacts on the surrounding area, to confirm the radio frequency needs of the applicant and to identify potential alternative solutions;

e. Any equipment shelter shall be designed to be architecturally compatible with existing structures on the site or found in the area;

704.59.3.4.1 Site Development Standards for Building and Roof-Mounted Antennas.

In addition to all other applicable development standards, PWSF proposed to be mounted on or attached to existing or proposed buildings shall comply with the following:

a. Building-mounted antennas and any ancillary equipment shall be in scale and architecturally integrated with the building design in such a manner as to be visually unobtrusive. Screening may include designs such as locating the facility within attics, steeples, towers, behind and below parapets, or concealed within a new architectural addition to a building or structure which is architecturally compatible with the building;

b. When antennas or other equipment are viewed directly against a building wall, colors and materials of the equipment shall be painted or otherwise treated to match the exterior of the building;

c. Roof-mounted equipment and antennas shall be located as far away as feasible from the edge of the building; and

d. Antennas mounted on such structures as utility poles, light standards or flagpoles shall be placed on the structure in a way to reduce visibility, and shall be painted to blend into the structure.

704.59.3.4.2 **Additional Development Standards for Monopoles.** In addition to all other applicable development standards, monopoles shall comply with the following:

a. The applicant shall demonstrate that the proposed facility cannot be placed on an existing building or co-located on an existing monopole or other tower. Where the County finds that such demonstration has not been made, the County may require an independent, third-party review, at the expense of the applicant, to identify the obstacles to co-location or building placement, to confirm the electromagnetic frequency needs of the applicant, and to identify alternative solutions;

b. Guy wires or support structures shall not be allowed; monopoles shall be self-supporting structures. Design and safety considerations are subject to approval by the County;

c. A monopole or other tower facility shall be designed to allow co-location of additional antennas, if deemed desirable by the County; and

d. Exterior lighting shall not be allowed on commercial PWSF except for that required for use of authorized persons on site during hours of darkness or where antenna structure owner or registrant is required to light the antenna structure by the terms of the FAA Antenna Structure Registration applicable to the facility.704.59.3.4.1

704.59.3.6.Appearance. All PWSF shall be designed to minimize the visual impact to the greatest extent feasible and shall be located, designed, and screened, to the greatest extent possible, using materials, colors, textures, screening, and landscaping that will blend the facilities with the existing natural or built surroundings, as well as any existing supporting structures, and shall be compatible with existing architectural elements to reduce visual impacts. The applicant shall use the least visible antennas possible to accomplish the coverage objective.

All high visibility facilities shall be sited in such a manner as to cause the least detriment to the viewshed of adjoining properties.

All camouflaged facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with the community character and existing development. The facility shall also be appropriate for the specific site (i.e., it should not "stand out" from its surrounding environment, such as a faux tree standing alone in a field or standing at a greater height (five feet or more) than other trees on the site..

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

Each application shall demonstrate that, to the greatest practical extent, the proposed facility is designed to limit the visual impact on surrounding land uses and public views.

704.59.3.9. Construction Standards:

704.59.3.9.6. All equipment shall be situated or sufficiently buffered to minimize interference with the quiet enjoyment of adjacent properties.

704.59.3.9.7. PWSF shall be sited to avoid any unreasonable interference with views from neighboring properties, and where their visual impact is least detrimental to scenic vistas.

704.59.3.9.8. Where the County finds that a proposed telecommunication facility has the potential to create a significant impact to the surrounding area or neighborhood, the County may require an independent, third-party review, at the expense of the applicant, to identify potential impacts on the surrounding area, to confirm the radio frequency needs of the applicant and to identify alternative solutions.

704.59.3.10. ~~Reserved Maintenance.~~ All graffiti on any components of the facility shall be removed promptly in accordance with County regulations.

All landscaping shall be maintained at all times and shall be promptly replaced if not successful.

If a flagpole is used for camouflaging a facility, the flags must be flown and must be properly maintained at all times.

All facilities located adjacent or within a residential zoning district shall be maintained and kept in good repair and condition at all times. All facilities shall be kept clean and free of litter.

704.59.3.11. Security.

704.59.3.11.2. Towers shall be enclosed by a continuous six (6) foot high security fence. Barbed wire may be used on security fences in any zoning district, provided such barbed wire is limited to three (3) strands and is a minimum of six (6) feet above the ground. Unless mandated by Federal or State regulation, the use of barbed wire for sites located adjacent to or within non-preferred zoning districts are prohibited. The gates shall be secured with a locking mechanism to prevent unauthorized access. A rapid access key box or other local fire district approved entry system shall be utilized.

704.59.3.12. **Application requirements.** In addition to the requirements of Section 508, an application for a telecommunication facility shall contain:

704.59.3.12.3. The application shall include a tabular and map inventory of all the applicant's existing telecommunications facilities that are located within Manatee County, including the incorporated municipalities. The map shall further identify the geographic service area for the proposed installation and the applicant's existing sites in the local service network associated with the significant gap the facility is meant to close. The applicant shall describe how this service area fits into and is necessary for the company's service network.

704.59.3.12.14. The applicant shall provide a visual impact analysis which shows the maximum silhouette, viewshed analysis, color and finish palette and proposed screening. The analysis shall include photo simulations and other information necessary to determine visual impact of the facility. A map depicting where the photos were taken shall be included.

704.59.3.12.15. The applicant must provide evidence that establishes that the proposed facilities have been designed to the minimum height required from a technological standpoint for the proposed site. If the tower will exceed the maximum permitted height limit, as measured from grade, a discussion of the physical constraints (topographical features, ect.) making the additional height necessary shall be required.

704.59.3.12.16. Describe the anticipated maintenance and monitoring program for the tower, back-up equipment and landscape.

704.59.3.12.17. Provide the manufacturer's specifications for all equipment such as back-up generators, and a depiction of the equipment location in relation to adjoining properties.

704.59.3.12.18 . Provide a Site plan for the location of the facility, drawn to scale, showing all existing and proposed features, in compliance with the checklist submittal requirements as established by the County.

704.59.3.12.19. Provide plans and elevations, drawn to scale, for facade- or roof-mounted antennas, including plans and elevations of the existing building.

704.59.3.12.20. Provide Floor Plans, elevations and cross sections of any proposed communications equipment shelter or other appurtenant structure at a scale of no smaller than 1/4" = 1' (1:48) with representation of all exterior materials.

704.59.3.12.21 Describe the proposed approach for screening all facilities from public view including plans for installation and maintenance of landscaping, sample exterior materials and colors. Where applicable, a plan showing existing surrounding landscaping, proposed landscaping, a landscape protection plan for construction, and a maintenance plan including an irrigation plan.

704.59.3.12.22 Describe the number, manufacturer, model number and type, catalog number, power output, frequency range, and dimensions of antennas, equipment cabinets, and related wireless communication facilities proposed to be installed.

704.59.3.12.23. Provide a narrative description and map showing the coverage area of the provider's existing facilities and the proposed coverage area of the specific site that is the subject of the application.

704.59.3.12.24. A visual analysis to assess the effects on views from public areas and from private residences, and address cumulative impacts of the proposed facility and other existing and foreseeable telecommunications facilities. As required by the Planning Director, the analysis may utilize a photomontage, filed mock-up or other techniques. The analysis shall include feasible mitigations for any effects identified.

704.59.3.12.25. If co-location is not proposed and sites available for co-location exist, the applicant shall provide information pertaining to the feasibility of joint-use antennas facilities, and discuss the reasons why such joint use is not a viable option or alternative to a new facility site. Such information shall include:

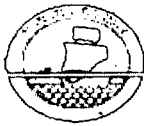
- a) Whether it is feasible to locate proposed sites where facilities currently exist;
- b) Information on the existing structure that is closest to the site of the applicant's proposed facility relative to the existing structure's structural capacity, radio frequency interface, or incompatibility of different technologies, which would include mechanical or electrical incompatibilities; and
- c) Written notification of refusal of the existing structure owner to lease space on the structure.

704.59.3.12.26 Specific Submittal Requirements for Towers. All applications for new tower construction, or major modification of an existing tower shall include:

- 1) A written, irrevocable commitment by the proposed operator, valid for the duration of the existence of the tower, to rent or lease available space for co-location on the tower at fair-market prices and terms to other personal wireless service providers without discrimination.
- 2) A professional structural engineer's written description of the proposed tower structure and its capacity to support additional antennas or other communications facilities at different heights and the ability of the tower to be shortened if future communications facilities no longer require the original height.

- 3) A description of available space on the tower, providing illustrations and examples of the type and number of wireless communication facilities that could be mounted on the structure.

704.59.3.14. Abandonment. Any telecommunication tower which has no operational antenna located thereon for a period of ~~six (6) months~~ 90 days will be deemed to be abandoned, and therefore shall constitute a violation of this Code. The owner or operator of the abandoned PWSF shall be given ~~six (6) months~~ 90 days after being provided with a notice of violation to either reactivate or dismantle and remove the PWSF. In the event of the owner or operator's failure to comply with the County's request for removal, the matter may be referred to the Manatee County Code Enforcement Board for enforcement. Nothing herein shall be construed to limit the County's right to pursue any other legal remedy. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good conditions may remain.



To:
Cc:
Bcc:
Subject: Fw: public comment

From: "glamart" <glamart@verizon.net>
To: <donna.hayes@mymanatee.org>
Date: 01/05/2010 02:51 PM
Subject: Proposed Ordinance 09-60

Dear Commissioner Hayes,

Thank you for your effort to get the proposed Ordinance 09-60 which restricts cell tower construction in residential neighborhoods, on the path to enactment. My review of the ordinance indicated a need for an amendment to protect non-commercial users as follows (from the Sarasota ordinance):

Sec. 118-34. Applicability.

This Article shall regulate the location, construction and modification of all Wireless Communication Facilities in unincorporated Sarasota County except:

- (1) Noncommercial freestanding and structure-mounted "receive only" Antennas which receive direct broadcast satellite service, video programming services via multi-point distribution services which are one meter or less in diameter in residential zones and three meters or less in diameter in nonresidential zones. The Antennas shall meet all other requirements of the Zone District as set forth in Sarasota County Zoning Ordinance (Ordinance No. 2003-52, as amended) (Appendix A to this Code).
- (2) Amateur radio Antennas and any Tower to support the Antenna that is owned and operated by a federally licensed amateur radio station operator used exclusively for noncommercial purposes.
- (3) Any Antenna, and any Transmission Tower to support the Antenna, owned and operated or licensed by the Federal Aviation Administration, and used exclusively for aircraft communication and navigation (NAVAIDS).
- (4) Any Antenna and any Transmission Tower to support the Antenna, not greater than 35 feet in height, and used exclusively as an Accessory Use to Essential Services.

Without this amendment, private citizens of the County could be given grief for satellite antennas, amateur radio emergency service (ARES) antennas, aircraft NAVAID services and other non-commercial public service radio antennas, all of which are well regulated by federal statute as administered by FCC or FAA. The legal confusion and the priority of federal statutes could cause our needed ordinance to become mute and unenforceable.

Your help with this matter will be greatly appreciated.

Sincerely,
G. Lamar Thomas
6186 Misty Oaks Dr.
Sarasota (Manatee County) FL 34243



Fw: Ordinance 09-06
Joe McClash to: Debbie Bassett
Sent by: Shirley Talley
Cc: Marianne Lopata

01/06/2010 02:04 PM

----- Forwarded by Shirley Talley/MCG on 01/06/2010 02:01 PM -----

From: Keith Webb <webbey1955@yahoo.com>
To: joe.mcclash@mymanatee.org
Date: 01/02/2010 09:46 AM
Subject: Ordinance 09-06

Dear Mr. McClash,

I am writing you to urge you to support the following inclusion in Ordinance 09-06. I am an amateur radio operator and a member of the Manatee County Amateur Radio Club, Manatee County Amateur Radio Emergency Service, and a Manatee County CERT member. ARI organizations and depend on radio communications to assist the residents of Manatee County in times of natural disaster. We are dependent on our radios and radio antennas for communication at these times. I am concerned that this ordinance, with much regulation and expense that I and other members of these organizations, as volunteers, will not be able to afford.

Please support the following inclusion in Ordinance 09-60, to specifically exempt private use services including Amateur Radio services regulated by Federal, State, Local, and HOA rules:

Sec 7, Applicability

Exemption:

Amateur radio Antennas and any Tower to support the Antenna that is owned and operated by a federally licensed amateur radio station operator used exclusively for noncommercial purposes.

Thank you for your consideration of this request and I appreciate your support in this matter.

Sincerely,

Keith A Webb
KJ4FFR