

ARTICLE X - SITING REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES

SECTION 10.1 INTENT.

The regulations and requirements of this Article are intended to:

- A. promote the health, safety and general welfare of the citizens by regulating the siting of wireless communications facilities;
- B. accommodate the growing need and demand for wireless communications services;
- C. provide for the appropriate location and development of wireless communication facilities within the Town;
- D. recognize that the provision of wireless services may be an essential service within such land use categories as may be provided for under the Comprehensive Plan, subject to the limitations set forth in this ordinance;¹
- E. minimize adverse visual effects of wireless communication facilities through careful design, siting, landscape screening and innovative camouflaging techniques;²
- F. encourage the location and collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for additional Antenna Support Structures; and
- G. further the balance between the need to provide for certainty to the communications industry in the placement of wireless communication facilities and the need to provide certainty to the residents and citizens of Pierson that the aesthetic integrity of the Town will be protected from the proliferation of unnecessary Antenna Support Structures.

SECTION 10.2 DEFINITIONS.

A. Accessory Equipment Building - Any building, cabinet or equipment enclosure constructed for the primary purpose of housing the electronics, backup power, power generators and other free standing equipment associated with the operation of antennas.

¹ It should be noted that the term "Wireless services" encompasses several different technologies, including wireless telephones, traditional non-cable television, AM/FM radio, paging and dispatch services. Some or all of these services may be considered "essential services" depending on public necessity. Because of the need for wireless service during natural disasters and other emergencies, the wireless telephone industry believes it should be considered an essential service throughout the State, but the FLC and FAC believe this should be determined by each locality.

² It is recommended that if other types of effects can be precisely identified such effects should be included.

B. Alternative Site - One or more separate locations where a new Antenna and Antenna Support Structure could be located or where a new antenna on an existing structure could be located to serve substantially all of the area intended to be served by a proposed antenna.

C. Antennas - Any apparatus designed for the transmitting and/or receiving of electromagnetic energy which includes but is not limited to telephonic, radio or television communications. Types of antennas include but are not limited to, whip antennas, panel antennas, and dish antennas. As used herein the term antenna includes all antennas integrated and used as a single unit, such as an antenna array. For purposes of this ordinance, the following shall not be considered antennas and shall not be regulated by this ordinance: privately owned amateur radio and citizens band antennas, irrespective of height and diameter, and antennas with a total diameter or width, including all parts of the antenna arrays, of two meters or less in commercial or industrial areas, or one meter or less in all areas³, if mounted no greater than twenty-five (25) feet above the roofline.

D. Antenna Support Structure - A facility that is constructed and designed primarily for the support of Antennas, which include the following types: (i) Guyed Tower -A tower that is supported in whole or in part by guy wires and ground anchors or other means of support in addition to the superstructure of the tower itself; (ii) Lattice Tower - A tower that consists of vertical and horizontal supports and crossed metal braces, which is usually triangular or square in a cross section; (iii) Monopole - An unguyed tower of a single pole design; and (iv) Camouflaged Structure - A structure designed to support Antenna and designed to blend into the existing surroundings. Privately owned amateur radio and citizens band antennas support structures shall be exempt from this ordinance.

E. Building Envelope - The area defined by the required building setback lines within which a principal structure may be located.

F. Collocation - When more than one FCC licensed Provider uses an Antenna Support Structure to attach Antennas.

G. Existing Structures - Any lawfully constructed man-made structure including but not limited to Antenna Support Structures, buildings, utility structures, light poles, clock towers, bell towers, steeples, water towers and the like, which allow for the attachment of Antennas.

H. FAA - The Federal Aviation Administration.

I. FCC - The Federal Communications Commission.

J. Provider - An FCC licensed communications company.

K. Temporary Mobile Telecommunications Tower – Also known as “Cellular on Wheels (COW’s) Shall mean mobile wireless telecommunications towers operated temporarily to handle special communications demands occurring as a result of or in association with a disaster or special event.

SECTION 10.3 ANTENNAS ATTACHED TO EXISTING STRUCTURES.

A. Where Permitted. Antennas attached to Existing Structures shall be permitted in all zoning districts

³This is based on the federal requirement for the exemption of earth stations, television antennas, satellite dishes, and other types of antennas (47 CFR 25.104 and 47 CFR 1.4000) and should not be amended.

subject to the requirements of this Section

B. Requirements. All Antenna installations shall meet the following requirements:

1. Antennas may be located on Existing Structures with a height of thirty (30) feet or greater, so long as the Antennas do not extend more than fifteen (15) feet above the highest point of the Existing Structure, and as limited by 3., below;
2. Antennas may be located on Existing Structures with a height of less than thirty (30) feet, so long as the Antennas do not extend more than five (5) feet above the highest point of the Existing Structure, and as limited by 3., below;
3. Notwithstanding subsections 1 and 2 above, Antennas, as defined in Section 2, shall not be located on single family structures.
4. No advertising shall be allowed on an Antenna;
5. No signals, lights, or illumination shall be permitted on an Antenna, unless required by any applicable federal, state or local rule, regulation or law;
6. Antennas shall comply with all applicable Federal Communications Commission emission standards;
7. Design, construction, and installation of antennas shall comply with all applicable local building codes;
8. Accessory Equipment Buildings used in conjunction with Antennas, if located on the ground, shall comply with the minimum accessory building setback requirements of the zoning district in which they are located.
9. All Antenna Support Structures shall be camouflaged.

C. Approval Process. All Antenna installations attached to existing structures shall require a site plan and a Town Development Permit. All such site plans and permits which comply with the requirements of this ordinance shall be approved administratively

D. Non-conforming Antennas. All Antennas legally installed at the time of initial installation may be repaired, replaced and/or relocated at an equal or lower height on the Existing Structure if they substantially comply with this Ordinance.

SECTION 10.4 ANTENNA SUPPORT STRUCTURES.

- A. Where Permitted. New Antenna Support Structures within the town limits of the Town of Pierson shall be located only in A-I. Agriculture zoning districts.
- B. Approval Process: Every request for approval of new Antenna Support Structure shall be reviewed as a Special Exception and shall require a site plan.

- C. Intent and purpose. The intent and purpose of this subsection is to address and balance the concerns about Antenna Support Structures and the recognized need of the Provider to serve the entire community. These issues shall be reviewed on a case-by-case basis for each Special Exception request in accordance with the existing procedures and standards set forth in Section 10.3⁴ and the provisions of this subsection. The Town Council may consider the recommendation of the Planning Board when determining whether or not to grant Special Exception approval. Additionally, the Town Council shall consider and weigh the aesthetic impact and compatibility issues of the proposed Antenna Support Structure with the public benefit derived from having an efficient and reliable wireless communications system.
- D. Application Requirements. To assist the Planning Board and the Town Council in carrying out their respective responsibilities, the application shall provide the information set forth below:
1. Design of the Antenna Support Structure with particular reference to design characteristics that have the effect of reducing visual obtrusiveness;
 2. Nature of principal uses on the site, with preference being given to the use of sites which are already developed with non-residential or business uses and which are currently visually impacted by tall structures, utility facilities, light poles, or other similar improvements;
 3. Nature of uses on adjacent and nearby properties and the proximity of the Antenna Support Structure to all adjacent land uses, with preference being given to A-I zoned sites and wetland areas.
 4. On-site and surrounding tree coverage and foliage, with preference being given to sites which can provide heavy vegetative screening of an Antenna Support Structure; and
 5. List of other Alternative Sites and Existing Structures that were evaluated prior to selecting the proposed location, and reasons for rejecting them.

Special Exception Criteria. In determining whether to approve a Special Exception request for an Antenna Support Structure, in addition to those criteria set forth in Sections 10.3, Special Exceptions⁵, the Town Council shall consider whether the following criteria will be satisfied:

1. There is a demonstrated need for a new Antenna;
2. The proposed Antenna Support Structure will not have substantial and adverse aesthetic impact on the community. The Town Council determination shall be based on relevant and competent evidence, documentation, and testimony received at the public hearing from the staff, the applicant and any party in support or opposition or their respective representatives. The Town

⁴ This section reference is intended to refer to Section 10.3, Town of Pierson Unified Land Development Regulations, the general requirements governing special exception approval that apply to any special exception request.

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Council shall utilize the following criteria in determining if a Special Exception is deemed approvable:

- a. Aesthetic impact: Aesthetic impact shall take into consideration, but not be limited to, the amount of the Antenna Support Structure that can be viewed from surrounding residential zones in conjunction with the Antenna Support Structure's proximity (distance) to the residential zone, mitigation, landscaping or intervening visual buffers, existing character of surrounding area, or other visual options proposed by the applicant. Aesthetic impact shall also take into consideration, but not be limited to, the visibility of the Antenna Support Structure from the line of sight along any arterial roadway as designated by the Town's comprehensive plan. For purposes of applying this "line of sight" criterion, Special Exception approval shall not be granted by the Town Council for any Antenna Support Structure that lies within a 2 degree offset from the centerline of a one mile or longer substantially straight segment of arterial road right-of-way within a 5-mile radius of the proposed Antenna Support Structure. (See illustration below.)
- b. Compatibility, Compatibility shall take into consideration the degree to which an Antenna Support Structure is designed and located to be compatible with the nature and character of other land uses and/or with the environment within which the Antenna Support Structure proposes to locate. The Antenna Support Structure may be placed or designed to assist with mitigating the overall aesthetic impact of an Antenna Support Structure.

3. The proposed Antenna Support Structure satisfies the requirements of Sections 11.5 and 11.6.

SECTION 10.5 GENERAL REQUIREMENTS FOR ALL ANTENNA SUPPORT STRUCTURES.

A. Antenna Support Structures shall be constructed in compliance with all applicable construction building codes, which shall include Electronic and Technological Industry Association standards, as amended.

B. No Antenna Support Structure shall exceed 200 feet in height

C. No Antenna Support Structures shall be located less than one thousand (1000) feet from any road right-of-way, railroad, residence, business, public property, residentially zoned property or business zoned property.

D. To encourage a reduction in the number of Antenna Support Structures that may be required to meet the community's increasing demand for wireless service, Antenna Support Structures shall be structurally designed to accommodate the collocation of Antennas as follows:

1. All Antenna Support Structures over 80 feet and up to and including 150 feet in height shall be structurally designed to accommodate at least two Providers,
2. All Antenna Support Structures exceeding 150 feet in height shall be structurally designed to accommodate at least three Providers.

E. An Antenna Support Structure may be located on a zoning lot containing other principal uses and may be located within an area smaller than the minimum lot size of the applicable zoning district if the zoning of the lot within which the Antenna Support Structure is located complies with the applicable minimum lot size for the existing principal use or is a legal non-conforming or grand fathered lot.

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F. Unless another section of this Article indicates otherwise, the area within which the Antenna Support Structure is located shall be the area subject to the requirements of this section, rather than the entire zoning lot.

G. Antenna Support Structures shall comply with the minimum setback requirements of the underlying zoning district, except additional setbacks due to height shall not apply. Ground anchors for guyed towers shall meet the minimum setbacks for accessory structures in the underlying zoning district.

H. Prior to the issuance of a building permit, the applicant shall provide evidence that the Antenna Support Structure is in compliance with F.A.A. and Local Aviation Administration regulations.

I. No advertising shall be allowed on the Antenna Support Structure.

J. No signals, lights, or illumination shall be permitted on the Antenna Support Structure, unless required by any federal, state or local agency, or such lighting or illumination is part of the design of a camouflage structure.

K. The Antenna Support Structure site (exclusive of guy wires and anchors where applicable) shall be enclosed within a metal/wood fence or a wall not to exceed 8 feet in height. This requirement shall not apply to Camouflaged Structures and may be waived by the Development Regulations Administrator for other Antenna Support Structures if the structure is made unclimbable up to a height of above twenty feet.

L. Landscaped buffers including a visual screen of plant material shall be provided between an Antenna Support Structure or Accessory Equipment Building and public streets or residential parcels.

1. If the site on which an Antenna Support Structure or Accessory Equipment Building is located abuts the public right-of-way or residentially developed or zoned property, the Antenna Support Structure or Accessory Equipment Building shall be screened from such abutting use by placing the landscaping along the security fence or wall
2. If the site on which an Antenna Support Structure or Accessory Equipment Building is not immediately abutting a public right-of-way or residentially developed or zoned property, the landscaping shall be provided along the boundaries of the zoning lot between the Antenna Support Structure or Accessory Equipment Building and the public right-of-way or residentially developed or zoned property.
3. Existing landscaping, vegetation or intervening buildings or permanent structures which provide the equivalent screening may be substituted.
4. If required, the landscaped buffers and screens shall comply with the provisions of Subsection 5.6.6, Landscaping Requirements.

M. The only signage that may be permanently attached to the fence or wall shall be for the purpose of identifying the party responsible for the operation and maintenance of the facility, its address, and telephone number, and security or safety signs.

N. Mobile or immobile equipment not used in direct support of the wireless facility shall not be stored or parked on the site, unless repairs to the Antennas and related equipment and/or to the Antenna Support Structure are being made.

SECTION 10.6 ACCESSORY EQUIPMENT BUILDINGS.

Accessory Equipment Buildings used in conjunction with the operation and maintenance of Antennas shall be permitted subject to the following requirements:

- A. Shall not exceed 750 square feet of gross floor area per Provider:
- B. If ground constructed or mounted, shall not exceed twenty (15) feet in height:
- C. Shall be located within close proximity, as is reasonably possible, to the structure upon which the Antennas are attached:
- D. If ground constructed or mounted, shall meet the underlying zoning district setback requirements for accessory structures;
- E. Shall be designed, constructed, and installed in compliance with all applicable local-building codes. If pre-fabricated, shall be certified by the State of Florida under all applicable state laws:
- F. Shall be of a material and/or color which matches or complements the exterior of the Existing Structure, if any, where the Antennas are located; and
- G. If ground constructed or mounted, shall meet the landscaping requirements of Subsection 11.5.1. of this ordinance.

SECTION 10.7 REMOVAL OF ABANDONED ANTENNA SUPPORT STRUCTURES.

- A. At time of building permit the applicant shall enter into a contractually enforceable agreement with the Town that requires the applicant or the owner of the Antenna Support Structure to remove the Antenna Support Structure upon its abandonment.
- B. In the event all legally approved use of any Antenna Support Structure has been discontinued for a period of one hundred eighty (180) consecutive days, the Antenna Support Structure shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Development Regulations Administrator who shall have the right to request documentation and/or affidavits from the Antenna Support Structure owner regarding the issue of Antenna Support Structure usage.
- C. At such time as the Development Regulations Administrator reasonably determines that an Antenna Support Structure is abandoned, the Development Regulations Administrator shall provide the Antenna Support Structure owner with written notice of an abandonment determination by certified mail. Failure or refusal by the owner to respond within sixty (60) days of receipt of such notice, shall constitute prima facie evidence that the Antenna Support Structure has been abandoned.
- D. If the owner of the Antenna Support Structure fails to respond or fails to demonstrate that the Antenna Support Structure is not abandoned, the Antenna Support Structure shall be considered Abandoned and the owner of the Antenna Support Structure shall have an additional one hundred twenty (120) days within which to: (i) reactivate the use of the Antenna Support Structure or transfer the Antenna Support Structure to another owner who makes actual use of the Antenna Support Structure within the one-hundred-twenty-

day period, or (ii) dismantle and remove the Antenna Support Structure. At the earlier of one hundred twenty-one (121) days from the date of Abandonment without reactivation or upon completion of dismantling and removal, any special exception approval for the Antenna Support Structure shall automatically expire.

**SECTION 10.8 NONCONFORMING ANTENNA SUPPORT STRUCTURES.
REPLACEMENTS AND MODIFICATIONS OF EXISTING STRUCTURES.**

To encourage the use of sites which already have an Existing Structure that creates a visual or height impact, modifications to or replacement of such facilities may occur subject to the following conditions:

- A. Non-conforming Antenna Support Structures: All Antenna Support Structures legally installed at the time of initial construction, which, because of changes to the Unified Land Development Regulations, no longer conform to the requirements of the Unified Land Development Regulations, shall be considered legally permitted non-conforming uses. Such facilities may be used or repaired and, may be replaced or modified in accordance with this Section.
- B. Modification or Replacement of Existing Structures to Accommodate Collocation:
 - 1. Modification or Replacement of Existing Antenna Support Structures. An existing Antenna Support Structure may be modified or replaced to accommodate the collocation of Antenna(s) as follows:
 - a. Antenna Support Structures which, when modified or replaced, will conform to the requirements of the Unified Land Development Regulations, may be modified or relocated on the same zoning lot up to the requirements of the Unified Land Development Regulations.
 - b. Antenna Support Structures which, when modified or replaced, will not conform to the requirements of the Unified Land Development Regulations, may be increased in height, one time, up to forty feet above the approved height and/or may be relocated on the same zoning lot, one time, within 75 feet of the existing location, with administrative review and without conformance with any other setbacks, or height related requirements.
 - c. After the Antenna Support Structure is replaced, as provide herein, the existing Antenna Support Structure shall be removed within 90 days.
 - d. An Antenna Support Structure which is modified or replaced to accommodate the collocation of additional Antenna(s) shall be either of the same type as the existing Antenna Support Structure or a monopole.
 - 2. Utilization of Existing Structures Other Than Antenna Support Structures. An Existing Structure, other than an Antenna Support Structure, may be modified or replaced to accommodate both its prior function and Antenna(s) as follows:
 - a. Such Existing Structures which when modified or replaced will conform to the requirements of the Unified Land Development

Regulations for Antenna Support Structures, may be modified or relocated on the same zoning lot up to the requirements of the Unified Land Development Regulations.

b. Such Existing Structures which, when modified or replaced, will not conform to the requirements of the Unified Land Development Regulations for Antenna Support Structures, may be:

(1) increased in height one time,

(a) if a distance greater than 110% of the height of the modified Existing Structure from any single-family residential structure, up to 50% of the height of the Existing Structure or 40 feet, whichever is less; or

(b) if the distance is less than 110% of the height of the modified Existing Structure from any single-family residential structure, up to 25% of the height of the Existing Structure or 40 feet, whichever is less.

(2) relocated on the same zoning lot, one time, within 50 feet of the existing location, with administrative review and without conformance with any other setbacks, separations or height - related requirements contained herein.

c. The modified or relocated pole-type structure shall comply with all applicable FCC and FAA regulations and applicable building codes.

SECTION 10.9 TEMPORARY MOBILE COMMUNICATIONS TOWERS.

- A. A temporary mobile communication tower may be placed, erected and/or operated on any public or private property within the Town, without prior approval by the Town, for a period not exceeding 72 hours, provided written permission has been given by the property owner. The Tower owner/operator shall deliver a copy of the written permission to the Town Hall within 4 hours of the placement of the Temporary Mobile Communications Tower or, if the Town Hall is not open during that 4 hour period, then the owner shall deliver a copy to the Town Hall within the first 2 hours that the Town Hall is open for regular business following the placement of the Temporary Mobile Communications Tower.
- B. The Town Council Chairman may approve a specified extension of time *not* exceeding 21 days, provided, the owner/operator has demonstrated to the Chairman's satisfaction that said tower is necessary to serve a public need.
- C. Extensions beyond 21 days may be granted by the Town Council only after the owner/operator has demonstrated to the Council's satisfaction that said tower is necessary to serve a public need.

SECTION 10.10 EXEMPTIONS.

The Town Council may exempt from the provisions of this Article any antenna and/or antenna support

structure on property owned by the Town of Pierson except that which lies between CSX Railroad and Highway 17.

SECTION 10.11 CONTINUING NOTIFICATIONS.

Radiation limits are specified and administered by the FCC. Any changes to those limits requires a notice to the Town that a facility, including all tenants, are in compliance with the new limits. This should be submitted no later than 90 days from the effective date of the change by the FCC.