



City Hall, 215 Sycamore
Muscatine, IA 52761-
(563) 262-4141
Fax (563) 262-4142

COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection
Services,
Public Health

MEMORANDUM

To: Planning and Zoning Commission
From: Andrew Fangman, City Planner
Date: January 12, 2016
Re: Draft of the Portion of the New Zoning Ordinance that Deals With Wireless Communication Facilities

The process to rewrite Muscatine's 40-year-old zoning ordinance and implement the vision contained within the recently adopted Comprehensive Plan has begun. Attached is the draft of the chapter dealing with regulating wireless communication facilities (cell towers).

Following is an overview of the most significant aspects of the proposed changes. Full text of the proposed sign regulations is attached. The four most significant areas of changes are: those needed to comply with recent federal and state mandates; creating a simpler and more consistent height limit across all zoning districts; the methods by which collocation of multiple carriers on a single tower is encouraged; and the addition of screening and landscaping standards.

The long running trend of both the Federal and State governments chipping away at the authority of local governments to regulate wireless communication facilities has continued in recent years. In 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act, a statute best known for extending tax cuts and unemployment benefits. However a measure relating to the siting of cell tower, Section 6409(a), which promotes wireless siting by further restricting a local government's ability to deny certain wireless applications that seek to modify existing wireless facilities, was attached to it. This section states that a state or local government may not deny, and shall approve, any *eligible facilities request* for a *modification* of an *existing wireless tower or base station* that does not *substantially change* the physical dimensions of such tower or base station. On January 8, 2015, the Federal Communications Commission issued final regulations that implement Section 6409(a). The proposed draft language regulating wireless communication facilities would bring City Code into compliance with these regulations.

In June of 2015, the Governor signed House File 655 into law, this bill further regulates and restricts how local governments can regulate wireless communication facilities. This codified the FCC regulations relating Section 6409(a) into state law, and also contained additional

"I remember Muscatine for its sunsets. I have never seen any
on either side of the ocean that equaled them" — Mark Twain

restrictions and requirements on how local governments can regulating wireless communication facilities, including:

- Requiring local governments to act on new tower applications within 150 days of receiving a complete application for construction
- Requiring local governments to act within 90 days of receiving a complete application for “initial placement or installation of transmission equipment on wireless support structures, a modification of an existing tower or existing base station that constitutes a substantial change, or a request for construction or placement of transmission equipment that does not constitute an eligible facilities request.
- It also contained a list of 13 things that a local government cannot do when presented an application for a wireless facility:
 - Require an applicant to submit information about, or evaluate an applicant’s business decisions with respect to, the applicant’s designed service, customer demand for service, or quality of the applicant’s service to or from a particular area or site a. Evaluate an application based on the availability of other potential locations for the placement or construction of a tower or transmission equipment. b. Require the applicant to establish other options for collocation instead of the construction of a new tower or modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station. c. Notwithstanding paragraph “b” an authority may require an applicant applying for the construction of a new tower to state in its application that it conducted an analysis of available collocation opportunities on existing towers or existing base stations within the same search ring defined by the applicant solely for the purpose of confirming that the applicant undertook such analysis.
 - Dictate the type of transmission equipment or technology to be used by the applicant or discriminate between different types of infrastructure or technology.
 - a. Require the removal of existing towers, base stations, or transmission equipment, wherever located, as a condition to approval of an application. b. Notwithstanding paragraph “a” the authority may adopt reasonable rules regarding removal of abandoned towers or transmission equipment.
 - Impose environmental testing, sampling, or monitoring requirements, or other compliance measures, for radio frequency emissions from transmission equipment that are categorically excluded under the federal communications commission’s rules for radio frequency emissions pursuant to 47 C.F.R. §1.1307(b)(1).
 - Establish or enforce regulations or procedures for radio frequency signal strength or the adequacy of service quality.

- Reject an application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions, as provided in 47 U.S.C. §332(c)(7)(B)(iv).
- Prohibit the placement of emergency power systems that comply with federal and state environmental requirements.
- Charge an application fee, consulting fee, or other fee associated with the submission, review, processing, or approval of an application that is not required for similar types of commercial development within the authority's jurisdiction. Fees imposed by an authority or by a third-party entity providing review or technical consultation to the authority shall be based on actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. In no case shall total charges and fees exceed five hundred dollars for an eligible facilities request or three thousand dollars for an application for a new tower, for the initial placement or installation of transmission equipment on a wireless support structure, for a modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or base station, or any other application to construct or place transmission equipment that does not constitute an eligible facilities request. An authority or any third-party entity shall not include within its charges any travel expenses incurred in the review of an application, and an applicant shall not be required to pay or reimburse an authority for consultant or other third-party fees based on a contingency or result-based arrangement.
- Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused towers or transmission equipment can be removed unless the authority imposes similar requirements on other applicants for other types of commercial development or land uses. If surety requirements are imposed, the requirements must be competitively neutral, nondiscriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned.
- Condition the approval of an application on the applicant's agreement to provide space on or near the tower, base station, or wireless support structure for authority or local governmental or nongovernmental services at less than the market rate for such space or to provide other services via the structure or facilities at less than the market rate for such services.
- Limit the duration of the approval of an application, except that construction of the approved structure or facilities shall be commenced within two years of final approval, including the disposition of any appeals, and diligently pursued to completion.
- Discriminate on the basis of the ownership, including ownership by the authority, of any property, structure, or tower when promulgating rules or procedures for siting wireless facilities or for evaluating applications.

The proposed draft chapter would bring City Code into compliance with House File 655.

The proposed draft chapter includes a significant change in the way the maximum height of communication towers is regulated. Currently anyone proposing a tower that exceeds the maximum height of the zoning district must obtain permission from City Council per Section 10-20-1(B) of City Code. Aside from the C-2 District no zoning district has a maximum height limit of 75', nearly all new communication towers are taller than 75'. Except for the two industrial zoning districts the construction a communication tower requires a conditional use permit. This means that a proposal for a new communication tower most likely needs to be approved by both City Council and the Zoning Board of Adjustment.

In order to better ensure compliance with state mandated timeline of acting on an application for a new tower within 150 days, and to streamline the process, the proposed draft language would allow communication towers to be constructed up to 150' with an approved conditional use permit, without additional City Council authorization, towers taller than 150' would still require separate Council approval. Nearly all existing communication towers within the City of Muscatine are between 75' and 150' height. Building towers to these heights is an integral part of this type of land use, and not a special exception that should require an additional approval process.

Collocation is when multiple carriers install equipment on the same communication tower. It is in the best interest of the City of Muscatine to encourage collocation. One of the most effective ways to less the negative impacts of communication towers is to reduce the numbers through collocation. However House File 655 prohibits the City from requiring a carrier to collocate on another entities tower, or to mandate that a tower owner allow another carrier to collocate on its tower. In accordance with state law the draft chapter does no mandate collocation, rather it encourages it by mandating towers constructed over 75' in height be design to accommodate collocation, and the chapter streamlines the process for approving the taller type of towers needed to accommodate collocation of multiple wireless communication on the same tower.

The proposed draft chapter would add landscaping and screening requirements for support facilities and tower bases. This is in line with various Comprehensive Plan goals that call for improvements to community appearance and increased landscaping. Lessening the visual impact of facilities and tower bases will help communication towers be more compatible with surrounding land uses.



Title 10 – Zoning

Chapter XXX – Wireless Communication Facilities

10-XXX-1 Purpose

The Communications Act of 1934, as amended by the Telecommunications Act of 1996 grants the FCC exclusive jurisdiction over certain aspects of telecommunication services. This Chapter intended to regulate towers, telecommunications facilities and antennas in the city in conformance with the act without prohibiting or tending to prohibit any person from providing wireless telecommunication service.

The purpose of this section is to establish general and specific guidelines for the regulation of wireless communication facilities and communication towers. In order to preserve and promote the public health, safety, convenience and general welfare of the City, this section is established to:

- A.** Protect the City’s visual environment from the potential adverse visual effects of the wireless communication facilities and communication towers, through careful design and location standards.
- B.** Prevent harm to adjoining public or private property by improper placement of wireless communication facilities.
- C.** Encourage collocation of wireless communication facilities on existing structures.
- D.** Streamline and expedite any existing permitting procedures in accordance with the intent of any Federal and State laws.

10-XXX-2 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter it’s most reasonable application.

- A. Applicant:** Means any person engaged in the business of providing wireless telecommunications services or the wireless telecommunications infrastructure required for wireless telecommunications services and who submits an application.
- B. Base Station:** Means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks).
3. Any structure other than a tower that, at the time the relevant application is filed with the City of Muscatine under this Chapter, supports or houses equipment described in Section 10-xxx-2(A)(1) or 10-XXX-2(A)(2) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City of Muscatine under this Chapter, does not support or house equipment described in Section 10-xxx-2(A)(1) or 10-XXX-2(A)(2).

- C. Collocation:** Means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- D. Communications Antenna:** Means any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omni-directional or whip antennas and directional or panel antennas, owned or operated by any person or entity required to be licensed by the Federal Communications Commission to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas
- E. Eligible Support Structure:** Means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City of Muscatine under this Chapter.
- F. Existing:** Means a constructed tower or base station is existing for purposes of this Chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this Chapter.
- G. Site:** Means for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures,



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

H. Substantial change: Means a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers, other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployment are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act. 47 CFR 1.40001 (b)(7)(i)(A).
2. For towers, other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.
4. It entails any excavation or deployment outside the current site.
5. It would defeat the concealment elements of the eligible support structure.
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1 through 5 of this section.

I. Wireless Communication Facility: Means any towers, poles, antennas, wireless communication tower accessory structures or other structures intended for use in connection with the transmission or receipt of cellular, global system of mobile communication, microwave, personal communication services, radio, specialized or



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

enhanced specialized mobile radio or television signals, or any other spectrum-based transmission/receptions.

- J. Tower:** Means any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. An amateur radio tower is not a “communications tower” under this Chapter.
- K. Transmission Equipment:** Means equipment, other than a tower, that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular anti backup power supply. The term includes equipment associated with wireless communications services including, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- L. Utility Pole:** Means a structure owned or operated by a public utility, municipality, or electric utility that is designed specifically for and used to carry lines, cable, or wires for telephone, cable television, or electricity, or to provide lighting.
- M. Site:** Means for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- N. Wireless Support Structure:** Means a structure that exists at the time an application is submitted and is capable of supporting the attachment or installation of transmission equipment in compliance with applicable codes, including but not limited to water towers, buildings, and other structures, whether within or outside the public right-of-way. “Wireless support structure” does not include a tower or existing base station.

10-XXX-3 Applicability of This Chapter

- A. Nonessential Services:** Wireless telecommunication towers and antennas shall be regulated pursuant to this Chapter and not regulated as essential service, public utility or private utility.
- B. Exclusions:** The following shall be exempted from this title:
 - 1. Any facilities expressly exempt from the City's siting, building, and permitting authority.
 - 2. Over the air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable)



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

providers (MMDS), television broadcast stations (TVBS) and other customer end antennas that receive and transmit fixed wireless signals that are primarily used for reception.

3. Facilities exclusively for private, noncommercial radio and television reception.
4. The installation of transmission equipment on a utility pole.

10-XXX-4 Tower Regulations

Towers shall comply with all the following regulations.

A. Collocation

New communication towers must demonstrate compliance with the following standards in this section.

1. A tower must be designed and constructed to accommodate collocation of additional communication antennas or providers when technically feasible and not in conflict with the height limitations in this section.
2. New towers with a height greater than 80 feet shall be designed to accommodate both the applicant's antenna and comparable antenna for at least one additional user.

B. Height and Setback Requirements

1. No tower shall exceed a height of 150 feet above grade, without approval by City Council.
2. The height and setback requirement for towers contained within this Chapter, supersede all other height and setback requirements contained within this Title.
3. A tower shall be setback from each lot line at least one foot for each foot of additional height above the height limit otherwise permitted in the zoning district in which the structure is located. The additional one foot above the zoning district height maximum is in addition to the normal building setback of the zoning district in which the proposed tower is to be located in.
4. A tower shall be set back 300 feet from the nearest residence.

C. Fencing

1. Towers shall be enclosed by a security fence not less than 6 feet in height, and the communication tower accessory structure shall be constructed in a manner that reasonably prevents unauthorized personnel from climbing the tower.



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

2. Nothing herein shall prevent security fencing which is necessary to meet other state or federal requirements.

D. Lighting and Markings

Towers shall not be illuminated unless required to conform to FAA or other governmental regulations.

E. Color and Finishing

Tower shall be painted or coated silver or have a galvanized finish to reduce the visual impact, unless otherwise required by federal regulations. Silver or galvanized finishes shall be required unless the setting or natural surroundings can be used to justify, to the Site Plan Review Committee, another color.

F. Landscaping

All tracts of land on which towers, antenna support structures, support facilities and/or antennas are located shall be subject to the following landscaping requirements:

1. Support facilities and tower bases shall be landscaped with a buffer of plant materials that effectively screens from view the tower base and any support facilities from adjacent property or street. The plantings installed shall be of a size and species that can achieve a height of six feet and 75% opacity within three growing seasons.
2. In locations where the visual impact of the tower and support facilities would be minimal, the landscape requirement may be reduced or waived by the Site Plan Review Committee.
3. Existing mature tree growth and natural landforms on the property shall be preserved to the maximum extent possible. Natural growth around the property perimeter may be considered a sufficient buffer for a proposed tower and support facilities as determined by the Site Plan Review Committee.

C. Airport

All communication towers will apply with all applicable regulation contained within Chapter XXX Airport District, Federal Aviation Administration Regulations, and all other applicable state and federal regulations.

D. Removal of Abandoned Wireless Communication Facilities

1. Any wireless communication facility that is not operated for a continuous period of 12 months is considered abandoned, and the facility owner shall remove all portions of the facility within 90 days. If the abandoned wireless communication facility is not removed within 90 days, the City of Muscatine may, after 30 days' notice to the wireless communication facility owner, remove it and recover all costs from the facility owner, including all attorney's fees and court costs that may arise while collecting these costs.



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

2. If the owner of an abandoned wireless communication facility cannot be located or it is no longer in business, the requirements of Subsection 1 are the responsibility of the land-owner on whose property the facility is located.

10-XXX-5 Transmission Equipment and Base Stations

Transmission equipment and/or base stations, that are not installed on a tower, shall be allowed as a permitted use in any zoning district subject to the following:

- A. Transmission equipment may be installed on approved towers, subject to all applicable provisions of this Chapter
- B. Transmission equipment may be mounted on structures, including, but not limited to, buildings, traffic signals, streetlights, water towers, billboards, telephone tower and emergency signal poles, bridges, and parking deck structures, in any zoning district subject to the following:
 1. No transmission equipment, by virtue of this Section may occupy, encroach or "overhang" any public right of way without the expressed approval of City Council.
 2. Each transmission equipment and/or base station installation shall require a separate building permit.
- C. The installation of or modifications of transmission equipment and/or base stations requires a conditional use permit, if it does not qualify as an "eligible facilities request" as set forth in Section 10-XXX-YY and any of the following criteria are met:
 1. If the highest point of the transmission equipment and/or base stations that it is being installed is not more than 25 feet above the highest point of the existing, smoke stack, water tower, or other structure.
 2. Transmission equipment and/or base stations arrays shall exceed with the maximum height requirement of the zoning district in which they are located.

10-XXX-6 Eligible Facilities Request

A. Purpose

This Section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"), as interpreted by the Federal Communications Commission's ("FCC" or "Commission") Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd 12865 (2014) ("2014 Infrastructure Order") which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.

B. Application Review



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

Upon receipt of an application for an Eligible Facilities Request pursuant to this Chapter, the Community Development Department shall review such application to determine whether the application so qualifies.

C. Timeframe For Review

Within 60 days of the date on which an applicant submits an application seeking approval under this Section, the City of Muscatine shall approve the application unless it determines that the application is not covered by this Chapter.

D. Tolling of the Timeframe for Review

The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the City of Muscatine and the applicant, or in cases where the Community Development Department determines that the application is incomplete.

1. To toll the timeframe for incompleteness, the City of Muscatine must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. If the City of Muscatine fails to provide written notification of any deficiencies
2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City of Muscatine's notice of incompleteness.
3. Following a supplemental submission, the City of Muscatine will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Section 10-XXX-YY(D). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

E. Interaction with 47 U.S.C. § 332(c)(7)

If the City of Muscatine determines that the applicant's request is not covered by Section 6409(a) as delineated under this Chapter, the presumptively reasonable timeframe under Section 332(c) (7), as prescribed by the FCC's Shot Clock order (Declaratory Ruling, 24 FCC Rcd 13994 (2009)), will begin to run from the issuance of the City of Muscatine's decision that the application is not a covered request. To the extent such information is necessary, the City of Muscatine may request additional information from the applicant to evaluate the application under Section 332(c)(7), pursuant to the Limitations applicable to other Section 332(c) (7) reviews.



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

F. Failure to Act

In the event the City of Muscatine fails to approve or deny a request seeking approval under 10-XXX-YY within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

G. Remedies

Applicants and the City of Muscatine may bring claims related to Section 6409(a) to any court of competent jurisdiction.

10-XXX-7 Conditional Use Permits

A. Application

Applicants seek approval of a new communication tower or transmission equipment requiring a conditional use permit must submit an application which includes the following:

1. Qualification as an applicant and statement of compliance. A copy of the FCC license for the wireless communication facility and a signed statement from the owner or operator of said facility attesting that it will comply with FCC regulations.
2. Affidavits showing conformance with all Federal Aviation Administration lighting and marking requirements.
3. A certificate, report or plan stamped by an Iowa licensed, professional engineer that indicates the equipment and tower will be in compliance with applicable building code requirements.
4. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
5. Information necessary to show that all applicable landscaping and screening requirements are to be met.
6. The longitude and latitude of the location of the proposed communication tower specifying the latest North American Datum coordinate system, as well as, site address or location.
7. The mean sea level (MSL) elevation of the site where the proposed communication tower is to be located, as well as, the wireless communication tower height and overall structure elevation.
8. An explanation regarding the reason for choosing the proposed location and the reason the applicant did not choose collocation. The explanation shall include a sworn statement from an individual who has responsibility over placement of



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

the tower attesting that collocation within the area determined by the applicant to meet the applicant's radio frequency engineering requirements for the placement of a site would not result in the same mobile service functionality, coverage, and capacity, is technically infeasible, or is economically burdensome to the applicant.

- B.** Applications for a conditional use permit to allow for a new tower will be approved or denied within 150 days.
- 1.** The time frame can be extended if both parties agree to an extension.
 - 2.** An application is deemed to be complete unless the City of Muscatine notifies the applicant in writing, within 30 calendar days of submission of the application, specifying the deficiencies in the application which, if cured, would make the application complete. The City of Muscatine's time frame to review the application is tolled beginning the date the notice is sent.
 - 3. Tolling of the Time Frame for Review**
 - a.** The 150-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the City of Muscatine and the applicant, or in cases where the Community Development Department determines that the application is incomplete.
 - b.** To toll the time frame for incompleteness, the City of Muscatine must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. If the City of Muscatine fails to provide written notification of any deficiencies
 - c.** The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City of Muscatine's notice of incompleteness.
 - d.** Following a supplemental submission, the City of Muscatine will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in Section 10-XXX-YY(D). Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - e.** If the application for conditional use permit is not acted upon within the timeframe established in XXXXX, it is deemed granted.
- D.** Applications for a conditional use permit to allow collocation will be approved or denied within 90 days.



DRAFT City of Muscatine, Iowa—Zoning Ordinance

Chapter XXX: Wireless Communication Facilities

1. The time frame can be extended if both parties agree to an extension.
2. An application is deemed to be complete unless the City of Muscatine notifies the applicant in writing, within 30 calendar days of submission of the application, specifying the deficiencies in the application which, if cured, would make the application complete. The City of Muscatine's time frame to review the application is tolled beginning the date the notice is sent.
3. **Tolling of the Time Frame for Review**
 - a. The 90-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the City of Muscatine and the applicant, or in cases where the Community Development Department determines that the application is incomplete.
 - b. To toll the time frame for incompleteness, the City of Muscatine must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. If the City of Muscatine fails to provide written notification of any deficiencies
 - c. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City of Muscatine's notice of incompleteness.
 - d. Following a supplemental submission, the City of Muscatine will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Section 10-XXX-YY(D). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
 - e. If the application for conditional use permit is not acted upon within the timeframe established in XXXXX, it is deemed granted.
- E. The City of Muscatine will notify the applicant in writing of Zoning Board of Adjustment's decision on any application for a conditional use permit
- F. The construction of the approved structure or facilities shall be commenced within two years of final approval, including the disposition of any appeals, and diligently pursued to completion. The Zoning Board of Adjustment shall not establish a shorter period of time for an approved structure or facilities as part of the approval of a conditional use permit.



10-XXX-8 Compliance with the “Iowa Cell Siting Act”

As is required by the “Iowa Cell Siting Act” the City of Muscatine shall not do any of the following:

- A.** Require an applicant to submit information about, or evaluate an applicant’s business decisions with respect to, the applicant’s designed service, customer demand for service, or quality of the applicant’s service to or from a particular area or site, but may require propagation maps solely for the purpose of identifying the location of the coverage or capacity gap or need for applications for new towers in an area zoned residential.
- B.** Evaluate an application based on the availability of other potential locations for the placement or construction of a tower or transmission equipment.
- C.** Require the applicant to establish other options for collocation instead of the construction of a new tower or modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station.
- D.** Dictate the type of transmission equipment or technology to be used by the applicant or discriminate between different types of infrastructure or technology.
- E.** Require the removal of existing towers, base stations, or transmission equipment, wherever located, as a condition to approval of an application.
- F.** Reject an application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions, as provided in 47 U.S.C. §332(c)(7)(B)(iv).
- G.** Prohibit the placement of emergency power systems that comply with federal and state environmental requirements.
- H.** Condition the approval of an application on the applicant’s agreement to provide space on or near the tower, base station, or wireless support structure for authority or local governmental or nongovernmental services at less than the market rate for such space or to provide other services via the structure or facilities at less than the market rate for such services.