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-----**BOARD OF COMMISSIONERS**-----

JOHNSON COUNTY

ORDINANCE 2017-2-01

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF JOHNSON COUNTY, INDIANA SECTIONS 6-101-4 AND 6-101-6 TO ADD A RIGHT-OF-WAY DEFINITION AND TO ADD DEVELOPMENT STANDARDS FOR SMALL CELL FACILITIES AND ASSOCIATED WIRELESS SUPPORT STRUCTURES

6-101-3. Definitions

Add Right-Of-Way to read:

RIGHT-OF-WAY: A specific and particularly described strip of land dedicated to the public fee simple, granted to the public by easement, or assumed for public use and accepted by the County to be devoted to use by the general public for general transportation purposes, utilities, and/or small cell facilities and associated wireless support structures, whether or not in actual fact improved or actually used for such purposes.

6-101-6. Regulations Applicable to Specific Uses

Add Section 6-101-6 (K). Small Cell Facilities and Associated Wireless Support Structures to read:

K. SMALL CELL FACILITIES AND ASSOCIATED WIRELESS SUPPORT STRUCTURES

1. Purpose

The purpose of this section is to establish reasonable land use and development standards allowing for the location of small cell facilities within unincorporated Johnson County, while minimizing the potential

negative impacts of such facilities. This section applies only to small cell facilities and associated wireless support structures as defined and detailed herein. Conventional, taller, wireless communications facilities are regulated in Section 6-101-6.I.

2. Definitions

For purposes of this Section 6-101-6 K, the words and phrases below are defined as follows:

- a. "antenna" means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.
- b. "base station" means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.
- c. "collocation" means the placement or installation of wireless facilities on existing electrical transmission towers, existing utility poles, existing wireless support structures, and existing structures, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
- d. "construction plan", when referring to a new wireless support structure, means a written plan for construction that indicates the aesthetics of the wireless support structure; the total height and width of the small cell facility and wireless support structure including cross section and elevation, footing, foundation and wind speed details; a structural analysis indicating the capacity for future and existing antennas including a geotechnical report and calculations for the foundation's capacity; the identity and qualifications of each person directly responsible for the design and construction; and signed and sealed documentation from the applicant that shows the proposed location of the small cell facility and wireless support structure and all easements and existing structures within one thousand (1,000) feet of such small cell facility or wireless support structure.

"construction plan", when referring to the substantial modification of an existing small cell facility or wireless support structure, means a plan that describes the proposed modifications to the wireless support

structure and all equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

- e. "electrical transmission tower" means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.
- f. "equipment compound" means the area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.
- g. "existing structure" does not include a utility pole or an electrical transmission tower.
- h. "permit authority" means the Johnson County Department of Planning and Zoning and the board of zoning appeals within the jurisdiction of unincorporated Johnson County.
- i. "person" means a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
- j. "small cell facility" means: (1) a personal wireless service facility as defined by the Telecommunications Act of 1996, 47 U.S.C. or (2) a wireless service facility that satisfies the following requirements: (a) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (b) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; and (c) the primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. This term does not include a wireless support structure.
- k. "substantial modification of a small cell wireless support structure" means the mounting of a small cell facility on a wireless support structure in a manner that: (1) increases the height of the wireless support structure by ten percent (10%) of the original height of the wireless support structure or greater; or (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the width of the wireless support structure and existing appurtenances. The term substantial modification does not include the following: (1) increasing the height of a wireless support structure to avoid interfering with an existing

antenna, or (2) increasing the diameter or area of a wireless support structure to: (a) shelter an antenna from inclement weather; or (b) connect an antenna to the wireless support structure by cable.

- l. "utility pole" means a structure that is: (1) owned or operated by: (a) a public utility; (b) a communications service provider; (c) a municipality; (d) an electric membership corporation; or (e) a rural electric cooperative; and (2) designed and used to: (a) carry lines, cables, or wires for telephone, cable television, or electricity; or (b) provide lighting.
- m. "wireless service facility" means the set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.
- n. "wireless support structure" means a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

3. Restrictions on Placement of New Wireless Support Structures

- a. Restrictions on placement within right-of-way
 - i. New wireless support structures are permitted in all zoning districts within the right-of-way, except within right-of-way identified as "Local" rights-of-way by the Existing Thoroughfare Map of the Johnson County Comprehensive Plan.
 - ii. New wireless support structures located within the right-of-way shall be placed at the back of the right-of-way, adjacent to where adjoining property lines intersect. The Johnson County Highway Department may approve a deviation from this requirement due to specific site conditions.
- b. Restrictions on Placement outside of the right-of-way
 - ii. New wireless support structures are not permitted outside the right-of-way in the A-1, RR, R-1, R-2, R-3, R-4, R-5, and PUD Districts.
- c. New wireless support structures shall not impede visual clearance as specified in Section 6-101-5 (F) of this Ordinance.

- d. New wireless support structures shall not block or encroach upon any sidewalk or walkway.
- e. New wireless support structures shall be a minimum of five-hundred (500) feet from any other wireless support structure located on the same side of the street (or along the same side of the closest street if located outside of the right-of-way).
- f. New wireless support structures shall be a minimum of seventy-five (75) feet from the intersection of any two street right-of-ways, measured from the point at which the back of the right-of-way lines intersect.
- g. New wireless support structures shall be a minimum of twenty (20) feet from any utility pole.

4. Collocation

Small cell facilities may be collocated on existing structures, existing electrical transmission towers, and existing utility poles at any location in any zoning district.

5. Specifications

Beginning on the effective date of March 14, 2017, new small cell facilities and new wireless support structures shall meet the following specifications:

a. Height

Small cell facilities and wireless support structures shall not exceed fifty (50) feet in height. However, in no instance shall small cell facilities and wireless support structures exceed 110% of the tallest existing utility pole located along the same street (or closest street if placed outside of the right-of-way) within five-hundred (500) feet.

b. Support structures shall be maintained in good working order at the cost of the applicant, including the cost of electricity.

c. Facility Size

Each antenna, including exposed elements, shall not exceed a volume of three (3) cubic feet. All antennas, including exposed elements, shall

not exceed a total volume of six (6) cubic feet. The primary equipment enclosure located with the facility shall not exceed a volume of seventeen (17) cubic feet or less. Alternatively, all facility equipment at a single facility, with the exception of the antenna itself, may be ground mounted in a cabinet having an area not to exceed forty (40) cubic feet and a height not to exceed forty-eight (48) inches.

- d. All support structures shall have a plaque identifying the structure, the owner and the owner's contact information, and said plaque shall not exceed 0.25 square feet.
- e. All wiring and fiber shall be concealed within the support structure and all conduit, wiring and fiber shall be buried between structures and/or structures and ground mounted cabinets. All service lines (e.g. electric lines) to the support structure must also be buried unless service lines in the area of the support structure are aerial. In that event, service lines to the support structure may also be aerial, except for any service drop crossing a street or roadway which would need to be bored and placed under such street or roadway.
- f. Wireless support structures and facilities shall be designed to blend into the surrounding environment and complement existing streetscape elements through the use of color, camouflaging and architectural treatment. Any equipment mounted to the support structures shall also match the support structure in color and general design. Approval of the aesthetic design of the wireless support structures and small cell facilities shall be at the discretion of the permit authority.
- g. Any proposed wireless support structure shall be designed and engineered structurally, electrically and in all other respects, to accommodate both the initial small cell facility and one or more additional small cell facilities. The support structure shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon the structure and to accept cellular communication equipment and antennas mounted at varying heights.
- h. Continued Operation

A person receiving a permit for (1) construction of a new wireless support structure; (2) substantial modification of a wireless support structure; or (3) collocation of wireless facilities inherently agrees that

if the wireless support structure or wireless facilities are not used for a period of six (6) consecutive months, they will be removed by the facility owner at its expense. Should such owner fail to remove the wireless support structure or wireless facilities after ninety (90) business days from the date a Notice of Violation is issued by the County, the County may remove such structure or facilities and bill the owner for the costs of removal and cleanup of the site.

i. Confidential Information

All confidential information submitted by an applicant shall be maintained to the extent authorized by Ind. Code 5-14-3 *et. seq.*

6. Permits

- a. A person that provides wireless communications service or otherwise makes available infrastructure for wireless communications services shall apply for a permit from the permit authority to (a) locate a small cell facility and wireless support structure, or (b) perform a substantial modification of a small cell wireless support structure.
- b. An applicant shall demonstrate that the proposed small cell facility, wireless support structure or substantial modification thereof complies with all applicable laws and ordinances governing land use and development.
- c. Within the right-of-way , a right-of-way permit issued by the Johnson County Highway Department is required to (a) locate a small cell facility and wireless support structure, (b) perform a substantial modification or (c) collocate wireless facilities on existing structures.
- d. Permits for New Wireless Support Structures

A proposal for a new wireless support structure shall include a map identifying all wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater within a one-half (1/2) mile radius of the proposed new wireless support structure. The new wireless support structure shall not be approved unless the person submits written documentation and an affidavit affirming that the small cell facility planned for the proposed wireless support structure cannot be accommodated on an existing or approved utility pole or electrical transmission tower or other existing structure with a height of fifty (50) feet or greater within

a one-half mile radius of the proposed new wireless support structure due to one (1) or more of the following reasons:

- i. The proposed small cell facility would exceed the structural capacity of existing or approved wireless support structures, utility poles, electrical transmission towers, and/or structures with a height of fifty (50) feet or greater as documented by a qualified and licensed professional engineer and that existing or approved wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost; or
 - ii. The proposed small cell facility would cause interference impacting the usability of other existing telecommunication equipment at the site if placed on existing or approved wireless support structures, utility poles, electrical transmission towers, and/or structures with a height of fifty (50) feet or greater as documented by a qualified and licensed professional engineer, and that the interference cannot be prevented at a reasonable cost; or
 - iii. Existing or approved wireless support structures, utility poles, and/or electrical transmission towers within a one-half (1/2) mile radius cannot accommodate the planned small cell facility at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or
 - iv. The persona has been unable to enter a commonly reasonable lease term with the owners of existing or approved wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater.
- e. Contents of Application for new wireless support structures and substantial modification of small cell wireless support structures

An application for a permit shall include the following:

- i. The name, business address, and point of contact for the applicant.

- ii. The location address, and Latitude and Longitude of the proposed or affected wireless support structure or small cell facility.
 - iii. A construction plan, as defined herein, that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment sufficient to determine compliance with applicable standards.
- f. Single Application for new wireless support structures and substantial modification of small cell wireless support structures

An applicant may submit one (1) application for the location or substantial modification of multiple small cell facilities and associated wireless support structures proposed for the same general location. The permit authority may issue a single permit for all such facilities and support structures included in the application rather than individual permits for each.

- g. Procedure for new wireless support structures and substantial modification of small cell wireless support structures

- i. Determination of Completion/Defects.

Within ten (10) calendar days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. An applicant that receives a written notice of incompleteness may cure the defects and resubmit the corrected application within thirty (30) calendar days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

- ii. Determination of Compliance with Zoning and Land Use Ordinances.

Within ninety (90) calendar days of making an initial determination of completeness, the permit authority shall

review the application to determine if it complies with applicable laws and ordinances governing land use and zoning, and shall notify the applicant in writing whether the application is approved or denied. If the applicant requested additional time to cure defects per (i) above, the ninety (90) day period is extended for a corresponding amount of time. If the application for the proposed wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, the permit authority may have not more than thirty (30) additional calendar days to determine the application's compliance with applicable zoning and land use laws and ordinances.

- h. Written Determinations for new wireless support structures and substantial modification of small cell wireless support structures

A written determination shall state clearly the basis for the decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial. A notice is considered written if it is included in the minutes of a public meeting of the permit authority.

7. Construction Requirements

All small cell facilities, wireless support structures, and other related improvements constructed within the Plan Commission jurisdiction shall comply with the following requirements:

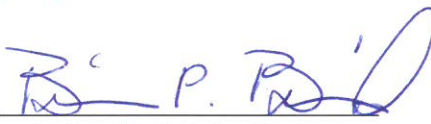
- a. All small cell facilities and wireless support structures shall be designed and constructed to conform to all applicable provisions of this Ordinance, the Building Code of the State of Indiana, as amended, and the Federal Communications Commission (FCC), when applicable.
- b. All small cell facilities and wireless support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code, as amended, and the Electronics Industry Association.
- c. All small cell facilities and wireless support structures shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.

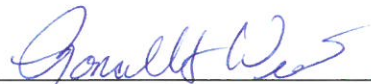
- d. All small cell facilities and wireless support structures shall be constructed to conform with the requirements of the Occupational Safety and Health Administration (OSHA).
- e. All small cell facilities and wireless support structures shall be designed and constructed to conform to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.


This ordinance shall take effect on March 14, 2017.

Adopted by the Johnson County Board of Commissioners this 13th day of March, 2017.

**BOARD OF COMMISSIONERS OF
JOHNSON COUNTY, INDIANA**

By: 
Brian P. Baird, Chair

By: 
Ronald H. West, Member

By: 
Kevin M. Walls, Member

ATTEST:



Pamela J. Burton, Johnson County Auditor

