



APPLICATION FOR PUBLIC USE

FLAGLER COUNTY, FLORIDA
 1769 E. Moody Blvd, Suite 105
 Bunnell, FL 32110
 Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project #: _____

PROPERTY OWNER(S)	Name(s):				
	Mailing Address:				
	City:	State:	Zip:		
	Telephone Number			Fax Number	

APPLICANT/AGENT	Name(s):				
	Mailing Address:				
	City:	State:	Zip:		
	Telephone Number			Fax Number	
	E-Mail Address:				

SUBJECT PROPERTY	SITE LOCATION (<i>street address</i>):				
	LEGAL DESCRIPTION: <i>(briefly describe, do not use "see attached")</i>				
	Parcel # (<i>tax ID #</i>):				
	Parcel Size:				
	Current Zoning Classification:				
	Current Future Land Use Designation:				
	Subject to A1A Scenic Corridor IDO?		YES	NO	

Description of Use: _____

 Signature of Owner(s) or Applicant/Agent
 if Owner Authorization form attached

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/ACTION:

APPROVED []
 *APPROVED WITH CONDITIONS []
 DENIED []

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

BOARD OF COUNTY COMMISSIONERS ACTION:

APPROVED []
 *APPROVED WITH CONDITIONS []
 DENIED []

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.



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Required Attachments for Semi-Public Use Application:

- 1.) Copy of Owner(s) recorded Warranty Deed;
- 2.) Application fee \$320.00 plus cost of newspaper ad(s) and postage at prevailing rates and \$50 for each notification of public hearing (posting of sign). Make check payable to BOCC.
Fee amount per Resolution 2008-31.
- 3.) Complete site plan meeting all requirements of Flagler County Land Development Code.

NOTE: Pursuant to Section 286.0105 of Florida Statutes, the Flagler County Planning Board hereby notifies all interested persons that if a person decides to appeal any decision made by the Planning Board with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.



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Definition per Flagler County Land Development Code –

Public use: The use of land, water or building by a municipality, public body or board, commission, or authority, county, state or the federal government or any agency thereof for a public service purpose.

3.06.05. Public, semi-public and special uses.

- A. *Application.* All public, semi-public and special uses not specifically provided for in any planning district or in other provisions of this article shall be subject to the regulations of this article.
- B. *Public and semipublic uses.* Public and semipublic uses excluding special uses as defined by this Article, may be permitted as follows:
1. Any public or semipublic uses may be permitted in any land use [zoning] district provided that the request for such use is officially made to the planning board by the public body or semipublic body desiring such use. The planning board shall determine whether or not such requested use is consistent with the adopted comprehensive plan and whether the use is necessary or desirable to support projected community needs. Public or semi-public uses and structures determined to be consistent with the comprehensive plan and necessary or desirable may be located in any land use district upon recommendation of the planning board, based in part on the submittal of a site plan showing site alterations, improvements to be made, and proposed buffers and conceptual landscaping plans. The site plan need not be engineered. The permitted location of public or semi-public uses or structures shall be such as not to be injurious to the health, safety and welfare of the public and shall protect the existing character of the surrounding properties or neighborhoods. The planning board shall consider the impact of the proposed use on land development patterns, on important natural resources, and, where applicable, the cost effectiveness of service delivery. The planning board also shall determine whether the proposed use will impose any substantial detrimental effects on the living or working conditions in the neighborhood. If approved, the planning board shall specify any requirements or conditions in the form of natural buffers, screening, landscaping, limited access or limited hours of operation or other site development restrictions that may be imposed by the planning board to protect the health, safety and welfare of the public or surrounding property owners. The planning board's recommendation, and the reasons therefor, shall be forwarded to the county commission for its review and decision.
 2. Public or semipublic uses existing at the time of the effective date of this article and as indicated on the Land Use Map of 1985 are hereby legally established as conforming public and semipublic uses. Modifications that involve additional structures or improvements on existing or approved sites shall require site plan review by the planning board. Expansion of public or semi-public uses which include additional land shall require reapplication and meet all requirements under this section 3.06.05.
- C. *Special uses.* Special uses may be permitted as follows:
1. Essential public and private utility installations may be permitted in any land use district. Essential utility services are hereby defined as installations which distribute water, sewer, gas, telephone, electricity, stormwater runoff, cable TV and similar utility services, but excluding major installations such as electrical or gas generating plants, water and sewage treatment plants, and other similar major installations (see subsection 3.05.05C.2). Any such installations shall be reviewed and approved by the county engineering department and shall be subject to any applicable present or future ordinances governing use of the county right-of-way.

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2. Major utility installations, including telephone and telegraph buildings over 1,000 square feet, electric transmission lines exceeding 115KV, natural and artificial gas production plants, radio and television stations and towers, water and sewer treatment plants, rapid infiltration basins, off-site potable water storage tanks, sewage and sludge disposal sites, electronic transmissions towers, wellfield installations and such similar major utility installations, may be permitted in any district, provided that application is made to the planning board for its review and recommendations to the county commission.
 3. Transportation terminals, including bus, railroad, air and water facilities, may be permitted in any nonresidential district, provided that such application is made to the planning board for its review and recommendations to the county commission.
 4. Major utility installations and transportation facilities identified in paragraphs [subsections] 2 and 3 above may be permitted providing that the request for such use is officially made to the planning board by the public or private utility or carrier desiring such use. The planning board shall determine whether or not such requested use is consistent with the adopted comprehensive plan and whether the use is necessary or desirable to support projected community needs. Major utility installations and transportation facilities determined to be consistent with the comprehensive plan and necessary or desirable may be located in an appropriate land use district upon recommendation of the planning board, based in part on the submittal of a site plan showing site alterations, improvements to be made and proposed buffers and conceptual landscaping plans. The site plan need not be engineered. The permitted location of major utility installations and transportation facilities shall be such as not to be injurious to the health, safety and welfare of the public and shall protect the existing character of the surrounding properties. The ability of the site to properly accommodate the proposed facility and the opportunity to locate the facility within the development which it is to serve may also be taken into consideration at the discretion of the planning board. The planning board shall consider the impact of the proposed use on land development patterns, on important natural resources, and, where applicable, the cost effectiveness of service delivery. The planning board also shall determine whether the proposed use will impose any substantial detrimental effects on the living or working conditions in the neighborhood or materially reduce the economic value of surrounding neighborhood properties. The planning board will have the flexibility to recommend requirements or conditions in the form of significant natural buffers, screening, landscaping, limited access, security fencing or other site development design criteria that may be imposed to protect the health, safety and welfare of the public or surrounding property owners. The planning board recommendations and the reasons therefor shall be forwarded to the county commission for its review and decision.
 5. Special uses existing at the time of the effective date of this article and as indicated on the Land Use Map of 1985 are hereby legally established as conforming special uses. Expansion of conforming special uses and conforming buildings on existing or approved sites shall require site plan review by the planning board and county commission. Expansion of special uses which include additional land shall require reapplication and meet all requirements under this section 3.06.05.
- D. *Lot and building requirements.* All public, semipublic and special uses shall meet the lot and building requirements of the district in which they are located.
- E. *Procedures for public, semi-public use and special uses.*
1. *Request application.* A request for a hearing before the planning board for a public, semi-public use or special use requiring planning board review shall be made as follows:

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- (a) A completed application form shall be filed with the planning director. Such application shall state the pertinent facts on which the request is based. For special uses, the application must be accompanied by a "Certificate of Need" statement which demonstrates the need for the proposed facility.
- (b) An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the planning director. Such site plan shall include, as a minimum, the following:
 - (1) Lot dimensions with property line monuments located thereon.
 - (2) Location and size of existing and proposed structures.
 - (3) Easements (public and private), water courses, wetlands, existing and proposed fences, street names, and street right-of-way lines and such information regarding abutting property, as directly affects the application.

2. Planning board hearing.

- (a) The planning director shall schedule a hearing before the planning board to consider the application. In no event shall such hearing be scheduled more than forty-five (45) days from the date of a complete application unless proper notice has not been made.
- (b) The hearing provided for under this section shall be for the purpose of reviewing relevant information from the applicant regarding the requested public, semi-public or special use. The planning board shall also review written and/or oral comments from the public in accordance with its established procedures.
- (c) The planning board shall determine whether sufficient factual data was presented in order to render a decision. If the planning board determines that sufficient factual data was presented, then it shall recommend to either:
 - (1) Approve the request as submitted;
 - (2) Approve the request with conditions; or
 - (3) Disapprove the request.

If the planning board determines that sufficient factual data was not presented, the planning board may direct the applicant to supplement its application. At its option, the planning board also may hire an independent consultant to study the issue and provide factual data. The planning board may continue the hearing until the next scheduled meeting to allow for the preparation of such factual data unless it extends the time for good cause shown on the record. Only one (1) such continuation shall be allowed for each requested public, semi-public or special use application unless good cause is found by the planning board on the record.

3. County commission hearing.

- (a) The planning director shall schedule a hearing before the county commission to consider the application. In no event shall such hearing be scheduled more than forty-five (45) days from the date of the planning board decision unless proper notice has not been made.
- (b) The hearing provided for under this section shall be for the purpose of reviewing relevant information from the applicant regarding the requested public, semi-public or special use. The county commission shall also review written and/or oral comments from the public in accordance with its established procedures. The



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planning director, during the course of the hearing, shall inform the county commission of the record, proceedings, and recommendation of the planning board regarding the application. The commission shall utilize the same substantive standards provided in this article for the planning board.

- (c) At the conclusion of the hearing provided for under this section, the commission shall determine whether sufficient factual data was presented in order to render a decision. If the county commission determines that sufficient factual data was presented, then it shall either:
- (1) Approve the request as submitted;
 - (2) Approve the request with conditions; or
 - (3) Disapprove the request.

If the commission determines that sufficient factual data was not presented, the commission may direct the applicant to supplement its application. At its option, the commission also may hire an independent consultant to study the issue and provide the factual data. The commission may continue the hearing until the next scheduled meeting to allow for the preparation of such factual data unless it extends the time for good cause shown on the record. Only one (1) such continuation shall be allowed for each requested public, semi-public or special use application unless good cause is found by the commission on the record.

4. *Reserved*

F. *Special siting criteria for telecommunication towers.*

- (1) The Board of County Commissioners of Flagler County has, on numerous occasions and with increasing frequency, been confronted with requests to site telecommunication towers. Prior to the adoption of these regulations, no specific regulations existed to address recurrent issues related to siting telecommunication towers. Accordingly, the board of county commissioners finds that the promulgation of policies for siting telecommunication towers is warranted and necessary:
- (a) To direct the location of telecommunication towers in unincorporated Flagler County;
 - (b) To protect residential areas, regional natural resource parks and other land uses from potential adverse impacts of telecommunication towers;
 - (c) To minimize potential adverse visual impacts of telecommunication towers through careful design, siting and landscape screening;
 - (d) To accommodate the growing need for telecommunication towers, particularly after the adoption of the Federal Telecommunications Act of 1996;
 - (e) To promote and encourage shared use/co-location of existing and new telecommunication towers as a primary option rather than construction of additional single-use towers;
 - (f) To consider the public health and safety impact of telecommunication towers; and
 - (g) To avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.



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- (2) All new telecommunication towers in unincorporated Flagler County shall be subject to these regulations and all other applicable regulations.
- (3) All telecommunication towers existing on the effective date of these regulations shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such existing towers, including replacement with a new tower of like construction and height. Replacement towers which exceed the height of the existing tower shall be subject to these regulations. New construction other than routine maintenance on an existing telecommunication tower shall comply with the requirements of this section.
- (4) Telecommunication towers and antennas shall be regulated and permitted pursuant to this section, which shall be interim until such time as the county further refines the standards.
- (5) For purposes of implementing this section, measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array (see Tables 1 and 2).
- (6) For purposes of implementing this section, a telecommunication tower that has received county approval in the form of either a special use or building permit, but has not yet been constructed, shall be considered an existing tower so long as such approval is current and not expired.
- (7) Definitions.
 - (a) *Antenna*. Any exterior apparatus, designed to transmit and/or receive communications authorized by the Federal Communications Commission (FCC).
 - (b) *Break point*. The location on a communication tower of a designed feature which, in the event of a tower failure, would result in the tower falling entirely within the boundaries of the property on which it is located.
 - (c) *Camouflaged tower*. Shall mean a telecommunication tower designed to unobtrusively blend into the existing surroundings and be disguised so as to not have the appearance of a telecommunication tower. Such structures shall be considered telecommunication towers and not spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level for purposes of applying height limitation. It is recognized that due to the height, such structures must be designed with sensitivity to elements such as building bulk, massing, and architectural treatment of both the telecommunication tower and surrounding development. Camouflaged towers on developed property must be disguised to appear as either a part of the structure housing, a principal use, or an accessory structure that is normally associated with the principal use occupying the property. Camouflaged towers developed on unimproved property must be disguised to blend in with existing vegetation.
 - (d) *Major electric transmission corridor*. An electric transmission line exceeding 115 k.v.
 - (e) *Regional natural resource park*. A federal, state or county owned natural resource park of five hundred (500) acres or more and involving the preservation of natural features and/or local and state historical resources.
 - (f) *Telecommunication tower*. AM/FM radio, television, microwave and cellular

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telephone transmission tower, antennas and accessory equipment and buildings. A telecommunication tower's use shall comply with the following supplementary use standards. If this section prohibits a government-owned tower from being located at a specific site and the tower is required to protect the public welfare or safety, the applicable criteria of this section may be waived or modified by the board of county commissioners. In such cases, the board of county commissioners shall make findings of fact indicating the justification for the modification. The term "telecommunication tower" shall not include towers utilized by amateur radio operators licensed by FCC or TV antennas for single-family dwellings.

(8) Performance standards.

- (a) Telecommunication tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Telecommunication towers shall comply with the minimum setback requirements of the district in which they are located and with major street setbacks as established. In cases where there is a conflict between the minimum setback requirements and the major street setbacks, the greater setback shall apply.
- (b) For towers located in planned unit developments (PUDs), the setback requirements shall be the same as required for the parcel.
- (c) Telecommunication tower separation shall be measured from the base of the tower to the closest point of off-site uses or zoning designated lands as specified in the following table:

Table 1. Telecommunication Tower Separation from Nearest Off-Site Uses/Zoning Designated Lands

Nearest Off-Site Use/Designated Area	Separation Distance
Single-family or duplex residential units (1)	300 feet or 200% of height of tower, (2) whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which has not expired	300 feet or 200% of height of tower, (2) whichever is greater
Regional natural resource parks	300 feet or 200% of height of tower, whichever is greater
Vacant unplatted residentially zoned lands (3)	200 feet or 100% of height of tower, (2) whichever is greater
Existing multi-family residential units greater than duplex units	200 feet or 100% of height of tower, (2) whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

- 1-Includes modular homes and mobile homes used for living purposes.
- 2-Separation measured from base of tower to closest property line of the off-site residential use.
- 3-Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

- (d) Separation distances between telecommunication towers shall be applicable for, and measured between, the proposed tower and those towers that are existing and/or have received Flagler County land use or building permit approval after February 10, 1997 (the effective date of these regulations). The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as follows:

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Table 2. Separation Between Existing Towers By Type

Proposed Tower Types	Lattice	Guyed	Monopole 75 ft. in Height or Greater	Monopole Less than 75 ft. in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft. in Height or Greater	1,500	1,500	1,500	750
Monopole Less than 75 ft. in Height	750	750	750	750

- (e) Inventory of existing sites. Each applicant for a tower and/or antenna shall provide to the planning department an inventory of existing towers within two (2) miles of the proposed site that are within the jurisdiction of Flagler County or within one-quarter (1/4) mile of the border thereof, including specific information about the location, height and design of each tower. The planning department may share such information with other applicants applying for special use permits under this ordinance [subsection] or other organizations seeking to locate antennas within Flagler County, provided however that the planning department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (f) The separation distances between telecommunication towers as set forth in Table 2, Existing Towers By Type, shall not be applicable to those telecommunication towers located on property zoned I-Industrial. It is deemed appropriate and desirable for future telecommunication towers to be located within "industrial parks" or properties zoned I-Industrial and to encourage shared use and co-location of towers.
- (g) Height restrictions and method of determining tower height. The maximum height of communication towers shall be:
 1. In all residential districts:
 - a. If constructed for a single user, up to ninety (90) feet in height; and
 - b. If constructed for two (2) or more users, up to one hundred fifty (150) feet in height.
 2. In all other zoning districts:
 - a. If constructed for a single user, up to one hundred fifty (150) feet in height;
 - b. If constructed for two (2) users, up to two hundred fifty (250) feet in height;
 - c. If constructed for three (3) or more users, up to three hundred (300) feet in height.

A telecommunication tower shall be considered to be constructed for more than

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one (1) user if (1) it is constructed so as to provide sufficient excess capacity over the initial single user loading for one (1) or more additional comparable users and (2) the applicant consents in writing with the county to permit one (1) or more additional comparable communication providers to use the proposed tower "where feasible" and subject to "reasonable terms."

Measurement of communication tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the tower site.

- (h) Illumination. Telecommunication towers shall not be artificially lighted except to ensure human safety or as required by the Federal Aviation Administration. At time of construction of the telecommunication tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower from the tower, dual mode lighting shall be requested from the FAA.
- (i) Finished color. Telecommunication towers, except to the extent required by the FAA, shall be painted in a non-contrasting forest green the first fifty (50) feet in height and either a galvanized finish or non-contrasting blue or gray finish for the remaining tower height over fifty (50) feet.
- (j) Structural design. Telecommunication towers shall be constructed to the EIA/TIA 222-E Standards, as published by the Electronic Industries Association, and as may be amended from time to time. Further, any improvements and/or additions (i.e. antenna, satellite dishes, etc.) to existing telecommunication towers shall require submission of site plans, sealed and verified by a professional engineer, which demonstrate compliance with the EIA/TIA 222-E Standards and Flagler County Construction/Building Codes in effect at the time of said improvement or addition.
- (k) Fencing. A chain link fence or wall not less than eight (8) feet in height from finished grade shall be provided around each telecommunication tower. Barbed wire or appropriate anti-climbing devices shall be used along the top of the fence or wall to preclude unauthorized access. Access to the tower shall be through a locked gate.
- (l) Landscaping. The visual impact of a telecommunications tower shall be mitigated for nearby viewers through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of telecommunication towers shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the planning and zoning director for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, the use of existing vegetation shall be preserved and may be used as a substitute of, or in supplement towards meeting landscaping requirements, provided such existing vegetation provides equivalent land-scaping functions as determined by the planning director.
 - 1. A row of shade or evergreen trees a minimum of eight (8) feet tall and a maximum of ten (10) feet apart shall be planted around the perimeter of the fence;
 - 2. A continuous hedge at least thirty (30) inches high at planting, capable of

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growing to at least thirty-six (36) inches in height within eighteen (18) months, shall be planted in front of the tree line referenced above;

3. All landscaping shall be of the evergreen variety;
 4. All landscaping shall be xeriscape tolerant or irrigated and properly maintained to ensure good health and viability. Dead plant material shall be replaced within a time period appropriate to the growing season of the species in question, not exceeding ninety (90) days. A violation of the landscape maintenance requirement may be subject to a civil citation in such amounts as the board of county commissioners may prescribe by resolution.
- (m) Variances. Any request to deviate from any of the requirements of this section shall require variance approval from the planning board, and shall conform to the procedures and standards governing variances.
- (n) Abandonment. In the event the use of any telecommunication tower has been discontinued for a period of one (1) year, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the planning and zoning director who shall have the right to request documentation and/or affidavits from the telecommunication tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have ninety (90) days to dismantle and remove the tower. After the date for removal without reactivation, any variance and/or special use approval for the tower shall automatically expire. The owner/applicant shall submit an executed removal agreement at time of special use permit application to ensure compliance with these requirements.
- (o) Incentives for co-location of communication licensees (antennas).
1. A telecommunication tower which co-locates two (2) or more communication licensees (antennas) and which is located in an AC-Agriculture or I-Industrial Zoning District or within an existing major electric transmission corridor shall be exempted from the separation distances for telecommunication towers as set forth in Table 2, Existing Towers By Type, from only those other towers that are located in either the AC-Agriculture or I-Industrial Zoning District. A telecommunication tower permitted under this subsection is still required to comply with the separation distances set forth in Table 1, Telecommunication Tower Separation from Nearest Off-Site Uses/Designated Areas. The building permit application to install additional antennas, dishes, or other similar receiving devices shall include certification from an engineer, registered in Florida, indicating that the additional device or devices installed will not adversely affect the structural integrity of the telecommunication tower.
 2. Telecommunication antennas as accessory uses.
 - a. Any communication antenna which is not attached to a telecommunication tower shall be a permitted accessory use to any commercial, industrial, professional, institutional, multi-family or utility structure provided that:
 1. The communication antenna does not exceed more than



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twenty (20) feet above the highest point of the structure;

2. The communication antenna complies with all applicable FCC and FAA regulations; and
3. The communication antenna complies with all applicable building codes and laws, rules and regulations.

(p) Co-location requirements.

1. Notwithstanding any other provisions of this ordinance [subsection], an applicant for a special use permit and/or variance, or an entity obtaining a development permit to construct a telecommunication tower, shall cooperate with other telecommunication providers in co-locating additional antennas on telecommunication towers permitted or otherwise authorized by Flagler County. Such applicant or permit holder shall exercise good faith in co-locating with other providers and sharing the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or substantial financial burden.) Such good faith shall include sharing technical information to evaluate the feasibility of co-location. In the event a dispute arises as to whether an applicant or permit holder has exercised good faith on accommodating other users, the county may require an independent third party technical study at the expense of the applicant.
 - a. All applicants shall demonstrate reasonable efforts in developing a co-location alternative for their proposal.
2. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of Flagler County that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the applicant's proposed antenna.
 - e. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an



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existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be

unreasonable.

- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (q) Aircraft hazard. Telecommunication towers shall not encroach into or through any established, public or private airport approach path, as established by the Federal Aviation Administration (FAA). Each application to construct a telecommunication tower shall include proof of FAA review and/or approval and shall be submitted with each special use application for a telecommunication tower. A building permit for an approved telecommunication tower shall not be issued until FAA approval is obtained.
- (r) Engineer certification. All plans for construction of a telecommunication tower, including foundation plans, shall be certified by an engineer licensed to practice in the State of Florida. The engineer must certify that the telecommunication tower has been designed with a break point feature, which, in the event of tower failure, would result in the tower falling entirely within the boundaries of the property on which it is located.
- (s) Camouflaged tower requirements.
 1. All lattice, guyed and monopole telecommunication towers constructed in any zoning district up to one hundred fifty (150) feet in height shall meet the definition of a camouflaged tower. These towers may be exempt from the finished color requirements of subsection (i), Finished color, when the prescribed colors conflict with the selected camouflaged technique.
 2. All lattice, guyed and monopole telecommunication towers constructed in any zoning district, except the AC Agriculture Zoning District, from one hundred fifty (150) feet to two hundred (200) feet in height shall meet the definition of a camouflaged tower. These towers may be exempt from the finished color requirements of subsection (i), Finished color, when the prescribed colors conflict with the selected camouflaged technique.
- (9) Land use compatibility factors to be considered in granting special use permits.
 - (a) Telecommunication towers shall be located and buffered to ensure compatibility with surrounding land uses. To help ensure such compatibility, the following will be considered:

The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one (1) or more of these criteria if the governing authority concludes that the goals of this ordinance [subsection] are better served thereby:

 1. Height of the proposed tower as measured according to subsection (8)(g);
 2. Proximity of the tower to residential structures and residential district



APPLICATION FOR PUBLIC USE

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boundaries;

3. Nature of uses on adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and foliage;
 6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 7. Proposed ingress and egress; and
 8. Availability of suitable existing towers and other structures as discussed in subsection (8)(p)2. of this ordinance [subsection].
- (10) Application requirements. In addition to the requirements of section 3.06.05 for special use permit applications, the following is required:
Each application for a special use for a proposed tower shall include, as a minimum, the following information:
- (a) The exact location of the proposed tower on a scaled site plan;
 - (b) The maximum height of the proposed tower;
 - (c) The color or colors of the proposed tower;
 - (d) The location, type and intensity of lighting for the proposed tower;
 - (e) The location of the proposed tower, placed on a recent aerial photograph, indicating all adjacent land uses within a radius of five hundred (500) feet from all property lines of the proposed tower locations;
 - (f) An appropriate landscape plan meeting the requirements of subsection (8)(1), Landscaping;
 - (g) Written documentation of reasonable efforts to co-locate antennas on existing telecommunication towers;
 - (h) Proof of FAA review and/or approval and engineer certification of tower construction plans; and
 - (i) Other information and data as prescribed by the planning and zoning director to meet the requirements of this section.
- (11) Franchise fees. A franchise fee on gross subscriber revenue shall be paid to Flagler County in the same percentage as is levied upon cable TV franchisees under the county's master cable TV regulatory ordinance or its successor if a telecommunications tower is located on or uses any county public right-of-way. A franchise fee otherwise may be levied as allowed by any future state or federal statute or rule and shall be effective as of the date of such statute or rule in an amount prescribed by such statute or rule. If no fee is prescribed by the statute or rule, the fee shall be in an amount equal to the fee the county receives from cable TV franchisees on gross subscriber revenue.

(Ord. No. 96-14, § 1, 12-2-96; Ord. No. 97-02, § 1, 2-3-97; Ord. No. 97-07, § 1, 4-23-97; Ord. No. 04-22, § 3, 12-20-04)

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 05/08