

WHITELAND TOWN COUNCIL

ORDINANCE 2019-04

AN ORDINANCE AMENDING THE WHITELAND ZONING CODE, TO REVISE THE ZONING REQUIREMENTS FOR TELECOMMUNICATIONS FACILITIES

Whereas, The Whiteland Advisory Plan Commission (“Commission”) conducted a public hearing on the proposed Zoning Text Amendment contained herein; and

Whereas, The Commission, after paying reasonable regard to 1) the Whiteland Comprehensive Plan, 2) the current conditions and the character of the current structures and uses in each district, 3) the most desirable use for which the land in each district is adapted, 4) the conservation of property values throughout the jurisdiction, and 5) responsible development and growth, has made a favorable recommendation by a vote of 6 for and 0 against, regarding the proposed change to the Zoning Code Text contained herein, and has certified the same to the Whiteland Town Council; and

Whereas, The Whiteland Town Council finds it in the best interests of the continued vitality of growth and development in the community to regulate the permitting and placement of telecommunications tower facilities as provided herein; and

Whereas, The Whiteland Town Council has given notice of its intention to consider this Ordinance; and

Whereas, The Whiteland Town Council has considered the recommendation of the Commission and paid reasonable regard to items 1 thru 5 referred to above.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WHITELAND, INDIANA, AS FOLLOWS:

1. **Zoning Ordinance Amended.** The text of the Whiteland Zoning Code is hereby amended by replacing existing Section 156.226 with the following:

§ 156.226 Telecommunication Tower Facility Standards

(A) These Telecommunication Tower Facility Standards are intended to provide for adequate, reliable public and private telecommunication service while maximizing the use of existing transmission towers and sites. The requirements seek to minimize the adverse, undesirable visual impact of towers through minimizing needed sites, design, and screening. These standards apply to all Zoning Districts in which telecommunication towers are a permitted use.

(B) Required Approvals: The placement of telecommunication tower facilities shall meet the following approval requirements:

- (1) **New Antenna:** The installation of a new antenna on an existing tower, including legal non-conforming towers, and existing alternative structures (water towers, buildings, steeples, etc.) may be approved by the staff subject to conformance with other

applicable requirements of this Ordinance. If a new antenna will add height to an existing tower by more than 10 feet, it will be subject to the regulations for the installation of a new tower.

- (2) New Accessory Structure(s): The installation of new accessory structures (i.e. equipment buildings) to support the installation of an antenna on an existing tower or alternate structure may be approved by the staff subject to conformance with other applicable requirements of the Zoning Code and the Town Code.
- (3) New Tower: The construction of a new tower shall be reviewed by staff in the case of a permitted use or by the Board of Zoning Appeals as a special exception use consistent with the provisions of this Ordinance.

(C)Removal: Property owner(s) are responsible for the removal and site restoration of a telecommunication tower that has been unused or abandoned for 12 consecutive months.

(D)Required Documentation: All applications for new telecommunication towers shall provide the following documentation with application.

- (1) Engineer's Report: A report from a structural engineer, licensed in the State of Indiana, that:
 - (a) Describes the tower height and design including a cross section, latitude, longitude, and elevation;
 - (b) Documents the height above grade for all potential mounting positions for co-located antenna and the minimum separation distance between antenna;
 - (c) Describes the tower's capability, including the type and number of antenna it can accommodate;
 - (d) Documents the steps the tower owner will take to avoid interference with established public safety telecommunication facilities; and
 - (e) Includes the engineer's stamp and registration number.
- (2) Letter of Intent: A recordable letter of intent committing the tower owner, property owner, and their successors to permit the shared use of the tower if an additional user agrees to meet reasonable terms and conditions for shared use.
- (3) Proof of Compliance: Proof of compliance with all applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and Indiana Department of Transportation (INDOT) regulations.
- (4) Removal Affidavit: A recordable document committing the property owner and their successors to remove the tower and all related structures if the tower is abandoned.
- (5) Determination of Need: Any proposal for a new tower shall only be approved if the applicant submits verification from a professional engineer (holding a valid license in the State of Indiana) that the antennas planned for the proposed tower cannot be accommodated on any existing towers or other structures within a 2 mile radius of the proposed tower location due to one or more of the following reasons:
 - (a) *Inadequate Structural Capacity*: Antennas would exceed the structural capacity of existing facilities and the structure cannot be reinforced or modified to accommodate the needed antennae at a reasonable cost.
 - (b) *Interference*: The array would cause interference impacting the usability of other, existing, equipment at a tower site.
 - (c) *Inadequate Height*: Existing towers or structures within the specified radius cannot

accommodate the equipment at a height necessary to function.

- (d) *Unforeseen Circumstances*: Other, unforeseen reasons, that make it unfeasible or impossible to locate the planned equipment on existing towers or structures.
- (e) *Reasonable Lease Agreement*: The tower owner is unable to enter into a reasonable lease term with existing tower / land owner(s).
- (f) *Land Availability*: Additional land area is not available to accommodate the needed facilities.

(E) Design Requirements: All towers and facilities shall meet the following design requirements:

- (1) Contextual Design: Towers and antennae should generally be designed to blend into the surrounding environment through the use of color, camouflaging, and architectural treatment, except in an instance where color is dictated by Federal or State regulations.
 - (a) Wireless towers should generally be of a monopole design.
 - (b) The use of residentially compatible materials such as wood, brick, or stone is required for associated accessory structures that must be designed to architecturally match the exterior of adjacent residential or commercial structures.
- (2) Lighting: Only when lighting is needed for safety or security reasons, or as required by the FAA or other authority shall it be permitted on the site. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties.
- (3) Co-Location: All towers must be structurally designed to be able to accommodate additional equipment with an antenna loading equal to the initial user.
- (4) Tower Height: All towers and antenna shall conform with all FAA tall structure requirements. Tower height is measured from ground level in all instances. Maximum tower height shall be 200 feet; maximum height of any accessory structure shall be 15 feet.
- (5) Interference: No new facility shall result in any interference with public safety telecommunications.
- (6) Signs: Signs for all telecommunication tower facilities shall be limited to 2 square feet per user.

(F) Site Requirements: All telecommunication tower facilities shall meet the following site requirements.

- (1) Residential Areas: No tower may be located closer than 500 feet from any property zoned residential (R1, R2, R3, A).
- (2) Staffing: All facilities should be designed to be fully automated and unattended on a daily basis.
- (3) Access: All vehicular access shall, whenever feasible, be provided along existing driveways. Access drives must be paved in all districts. Any portion of an entrance located within a right-of-way must be designed to meet the minimum standards outlined in the Whiteland Typical Construction Guidelines and Subdivision Design Standards and Specifications.
- (4) Site Area: Each parcel where a tower is located must be large enough to accommodate future anticipated accessory structures. The minimum lot size for a new tower must have width and depth equal to 1/2 the proposed height of the tower.
- (5) Setbacks: The minimum front, side, and rear yard setbacks for all towers shall be 50

feet from all property lines. In no instance shall any portion of the site encroach into a required front yard setback, including fencing, guide wires or bracing, and required landscaping.

- (6) Encroachment: No part of any telecommunication tower facility, including lines, cables, equipment, wires, or braces, may extend across or over any part of a public right-of-way.
- (7) Fencing: An 8 foot tall security fence shall completely surround the tower and accessory equipment at the site. All fencing should be setback from the side and rear property lines a minimum of 10 feet in order to accommodate required landscaping features.
- (8) Landscaping: Evergreen buffer plantings are required around the outermost perimeter of the security fence. Evergreen hedges must be a minimum of 24" in height, at the time of planting, and planted a maximum of 3 feet on center, while evergreen trees must be a minimum of 5 feet in height, at the time of planting, and be planted a maximum of 10 feet on center.

(G) **Construction Requirements**: All antenna, towers, and accessory structures shall comply with applicable building code, OSHA regulations, and FAA lighting and marking requirements. An engineer's certification shall be submitted to document and verify the design specifications.

(H) **Existing Facilities**: The following regulations shall apply to existing telecommunication tower facilities:

- (1) Expansion of Existing Facilities: Subject to Subsection (2) below, any expansion resulting from a co-location shall not be considered a substantial expansion for the purposes of the Zoning Code and the Town Code.
- (2) Installation of Co-Located Antennas: A request submitted to the Town to install an antenna to be co-located on an existing tower will only require an Improvement Location Permit and a copy of the contract between the applicant and the tower owner. If the new antenna will add height to an existing tower by more than 10 feet, it shall be subject to the regulations for the installation of a new tower.

2. **Repeal of Conflicting Ordinances**. The provisions of all other ordinances or resolutions in conflict with the provisions of this ordinance are of no further force or effect.

3. **Severability of Provisions**. If any part of this ordinance is held to be invalid, such part will be deemed severable and its validity shall have no effect upon the remaining provisions of this ordinance.

4. **Duration and Effective Date**. The provisions set forth in this ordinance shall become and remain in full force and effect (until their repeal by ordinance) on the date of passage and adoption of this ordinance as evidenced by the signature of the executive in the manner prescribed by Indiana Code 36-5-2-10.


INTRODUCED on the 13th day of August, 2019. DULY PASSED on this 13th day of August, 2019, by the Town Council of the Town of Whiteland, Johnson County, Indiana having been passed by a vote of 5 in favor and 0 Opposed.

Voting In Favor

Voting Opposed



Andy Brock, President



Andy Brock, President



David Hawkins

David Hawkins



Scot Ford

Scot Ford



Joseph Sayler

Joseph Sayler



Brad Goedeker

Brad Goedeker

Attest:


Debra L. Hendrickson, Clerk-Treasurer



TOWN OF WHITELAND

DEPARTMENT OF COMMUNITY DEVELOPMENT

549 MAIN STREET · WHITELAND, INDIANA 46184 · (317) 535-5531 · FAX (317) 535-8724
www.townofwhiteland.com

**CERTIFICATION OF THE TOWN OF WHITELAND
ADVISORY PLAN COMMISSION'S RECOMMENDATION
ADVISORY PLAN COMMISSION CASE # 2019-AO-08
ORDINANCE # 2019-04**

The Town of Whiteland Advisory Plan Commission ("Commission") met on Tuesday August 6, 2019 and Monday August 12, 2019 to consider a proposed zoning text amendment to Chapter 156.226 of the Town of Whiteland Zoning Code.

Notice was shown to have been published in a newspaper of general circulation in Johnson County, Indiana (Johnson County Daily Journal) on or before July 27, 2019 and procedures for Zoning Text Amendment, per IC 36-7-4-602(b), have been adhered to.

After due consideration and input from the public hearing at its regular meeting on August 6, 2019, the Commission voted 6 in favor and 0 opposed with 1 abstentions to forward to the Council of the Town of Whiteland ("Council") the proposed **Ordinance 2019-04** with the following recommendation. A quorum of 6 of the Commissions seven (7) members were in attendance for the public hearing.

- FAVORABLE**
- UNFAVORABLE**
- FAVORABLE WITH MODIFICATIONS**

By virtue of a favorable recommendation by the Commission, pursuant to IC 36-7-4-608(f)(4), the Town Council has 90 days to act on this petition before it becomes effective as Certified by the Commission. Ninety (90) days from the date of Certification (August 12, 2019) is Sunday November 10, 2019.

Attest: Joseph Csikos
Joseph Csikos, Planning Director
Town of Whiteland, Indiana

Dated: August 12, 2019

BY: [Signature]
Printed Name, Title: Richard Hill; President
Whiteland Advisory Plan Commission

Proposed Revisions to Zoning Code Provisions Concerning Telecommunication Towers

Section 156.226 of the Zoning Code shall be replaced with the following:

156.226 Telecommunication Tower Facility Standards

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WHITELAND TOWN COUNCIL
NOTICE OF INTENT TO CONSIDER

DATE: Tuesday, August 13, 2019

TIME: 7:00 p.m.

PLACE: Whiteland Town Hall
549 Main Street
Whiteland, Indiana 46184

At the regular meeting of the Whiteland Town Council on Tuesday, August 13, 2019, the business to be considered will include the adoption of Ordinance No. 2019-04, An Ordinance Amending The Whiteland Zoning Code Concerning Telecommunication Towers and Telecommunication Facility Standards.