

ORDINANCE 2020- 14
AN ORDINANCE AMENDING THE
CASS COUNTY ZONING ORDINANCE

WHEREAS, the General Assembly of the State of Indiana granted powers to the counties to adopt zoning ordinances for their jurisdiction according to IC 36-7-4-600 series; and

WHEREAS, the County of Cass County, Indiana adopted the Cass County Zoning Ordinance which became effective on October 3, 1986, and has had subsequent amendments as listed on the title page of the Cass County Zoning Ordinance; and

WHEREAS, The General Assembly of the State of Indiana granted powers to counties to amend the text of an adopted zoning ordinance according to IC 36-7-4-602 (b), and Section 906 of the Cass County Zoning Ordinance allows for the amendment of said Ordinance; and

WHEREAS, the Cass County Plan Commission held a public hearing on Tuesday November 3, 2020, on the proposed textual amendments to the Cass County Zoning Ordinance regarding the following sections and all related sections;

Section 522 Telecommunications Facilities
Table A Use Table
Section 201 Definitions
Section 307 General Provisions and Exceptions to the Height Regulations

WHEREAS, The Cass County Plan Commission did send a favorable recommendation for the text amendments to the Cass County Board of Commissioners; and

WHEREAS, the Cass County Board of Commissioners believes there is merit in amending the Ordinance, as attached, in order to promote the public health, safety, comfort, morals, convenience and general welfare of the community; now therefore, be it

ORDAINED by the Cass County Board of Commissioners of Cass County, Indiana, as follows:

SECTION 1: That the Cass County Zoning Ordinance be amended according to the amendments, as attached.

Proposed Language Change:

522 TELECOMMUNICATIONS WIRELESS FACILITIES: All standards of this section apply to telecommunications facilities that are covered by the Telecommunications Act of 1996 as in effect July 1, 2015. This section is in accordance with IC 8-1-32.3, and compatible with the provisions of Section 332(c)(7)(B) of the Federal Telecommunications Act of 1996 as in effect on July 1, 2015, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. This section # does not

apply to personal television antennas, ham radio, or short wave radio antennas, or other communications equipment accessory to residential uses.

522.01 Prior to an improvement location permit, the applicant shall provide information demonstrating compliance with all FCC, FAA and ANSI standards. ~~and all other state or local standards.~~

522.02 ~~All telecommunication wireless towers must meet the standards of Section 307.01 which states communication structures, such as telecommunication towers (as defined) may exceed normal height requirements provided their total height does not exceed their distance from the nearest lot line.~~

- A. No standards or applications are required for an applicant regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.
- B. All other new Wireless Towers within the right-of way shall be reviewed by the Highway Superintendent.
- C. All Wireless Collocations on all personal or public properties shall provide property owner consent and provide an engineer certificate that indicates that the collocation can handle the new service's weight load.
- D. All Wireless Towers located on all other personal or public properties shall provide property owner consent if not the owner and meet the following standards:
 - 1. Fall Zone Limitation (setback): fall zone requirement for a wireless support structure shall not be larger than the area within which the structure is designed to collapse, as set forth in the engineering certification for the structure. This section supersedes any setback requirement in Table B of this Ordinance.

~~A fall zone requirement may not be imposed for a wireless support structure that is larger than the area within which the structure is designed to collapse. This section does not apply to any setback requirement prescribed in Table B of this Ordinance.~~
 - 2. All new ~~telecommunications~~ towers shall be designed and constructed to accommodate a minimum of three service providers.

when Co-located (as defined) (see Section 522)

Section 201 Definitions

~~Telecommunications~~ Wireless Facility Tower Co-location: ~~Telecommunications~~ antenna and related equipment which is 1) located on an existing ~~communications~~ tower which has at least one other ~~telecommunications~~ antenna and related equipment; or 2) located on an existing structure, for example, water towers, radio and television towers, tall buildings, commercial signs, church steeples, etc in order to minimize the proliferation of new towers/facilities.

~~Telecommunications~~ Wireless Facility: A facility that transmits and/or receives electronic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunications towers, or similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development. It does not include personal television antennas, ham radio, or short wave radio antennas, or other communications equipment accessory to residential uses.

~~Telecommunications~~ Wireless Tower: A mast, pole, monopole, guyed, or freestanding framework or other vertical elements that act as an antenna or to which an antenna is affixed or attached.

307 GENERAL PROVISIONS AND EXCEPTIONS TO HEIGHT REGULATIONS: No principal structure in any district may be constructed, reconstructed, altered, or enlarged which exceeds 35 feet in height above average ground level. One-story primary structures may not have accessory structures that exceed 16 feet in height. Two-story or taller primary structures may not have accessory structures that exceed 24 feet in height.


B. Communication structures such as ~~telecommunication~~ wireless towers (as defined), radio and television and relay stations and receiving stations and aerials and observation towers.

~~1. A fall zone requirement may not be imposed for a wireless support structure that is larger than the area within which the structure is designed to collapse. This section does not apply to any setback requirement prescribed in Table B of this Ordinance.~~

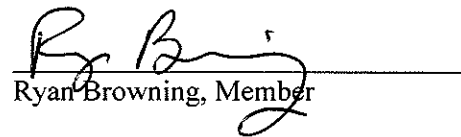
ADDED LANGUAGE IS UNDERLINED ~~DELETED LANGUAGE IS STRUCK THROUGH~~

SECTION 2: That this amendment be in full force and effect upon its passage.


Adopted this 16th day of November 2020.


Ralph Andersen, President


James Sailors, Member


Ryan Browning, Member

ATTEST:


Cheryl Alcorn County Auditor

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