

ORDINANCE 98- 16
AMENDMENT to the KENDALL COUNTY ZONING ORDINANCE
TELECOMMUNICATION CARRIER FACILITIES

WHEREAS, the Kendall County Zoning Ordinance has included for many years provisions regulating towers and other utility equipment; and

WHEREAS, the Illinois State Statutes have recently been amended giving certain zoning authority to counties to adopt certain regulations on telecommunication carrier facilities; and

WHEREAS, there has been a recent increase in the number of said facilities including towers that have been built and proposed in Kendall County and this trend is expected to continue; and

WHEREAS, there is desire to promote the protection from the compatibility with said facilities; and

WHEREAS, all administrative procedures required by Kendall County for amending the Zoning Ordinance including a public hearing held by the Zoning Board of Appeals have been followed; and


WHEREAS, the Kendall County Board finds that the telecommunication carrier facilities regulations in this ordinance are in the best interest of Kendall County;

THEREFORE, BE IT ORDAINED by the County Board of Kendall County, Illinois hereby amends the Kendall County Zoning Ordinance with the text regarding telecommunication carrier facilities provided in Exhibit A attached hereto.

IN WITNESS OF, this Amendment to Kendall County Zoning Ordinance has been enacted on August 18, 1998.



John A. Church
Kendall County Board Chairman



Paul Anderson
Kendall County Clerk

EXHIBIT A
ORDINANCE 98-__
TELECOMMUNICATION CARRIER FACILITIES
Amendment to the Kendall County Zoning Ordinance

(Additions are indicated by underline; deletions are indicated by ~~strikeout~~)

6.06 EXCEPTIONS-UTILITIES

- A. The following ~~uses~~ utility facilities are exempted from regulation by this amended Zoning Ordinance; ~~and permitted in any district~~

~~Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or any other similar distribution equipment for telephone or other communications, electric, power, gas, water and sewer line provided that the installation shall conform when applicable with the Federal Communications Commission and Civil Aeronautics Administration rules and regulation, and other authorities have jurisdiction. of a public utility as defined in the Public Utilities Act, if the public utility is subject to the Messages Tax Act, the Gas Revenue Tax Act, of the Public Utilities Revenue Act, or if such facilities or equipment are located on any rights of way and are used for railroad purposes; except as regulated by subsection B below.~~

- B. Telecommunications carrier facilities shall be allowed in all zoning districts if they conform to the following standards.

1. Definitions

- a. "county jurisdiction area" means those portions of the County of Kendall that lie outside the corporate limits of cities, villages, and incorporated towns that have municipal zoning ordinances in effect;
- b. "county board" means the county board of the County of Kendall .
- c. "residential zoning district" means a zoning district that is designated under the Kendall County Zoning Ordinance and is zoned predominantly for residential uses;
- d. "non-residential zoning district" means the county jurisdiction area except for those portions within a residential zoning district;
- e. "residentially zoned lot" means a zoning lot in a residential zoning district;
- f. "non-residentially zoned lot" means a zoning lot in a non-

- residential zoning district;
- g. "telecommunications carrier" means a telecommunications carrier as defined in the Public Utilities Act as of January 1, 1997.
- h. "facility" means that part of the signal distribution system used or operated by a telecommunications carrier under a license from the FCC consisting of a combination of improvements and equipment including:
(1) one or more antennas;
(2) a supporting structure and the hardware by which antennas are attached;
(3) equipment housing; and
(4) ancillary equipment such as signal transmission cables and miscellaneous hardware;
- i. "FAA" means the Federal Aviation Administration of the United States Department of Transportation;
- j. "FCC" means the Federal Communications Commission;
- k. "antenna" means an antenna device by which radio signals are transmitted, received, or both;
- l. "supporting structure" means a structure, whether an antenna tower or another type of structure, that supports one or more antennas as part of a facility;
- m. "qualifying structure" means a supporting structure that is:
(1) an existing structure, if the height of the facility, including the structure, is not more than 15 feet higher than the structure just before the facility is installed, or
(2) a substantially similar, substantially same-location replacement of an existing structure, if the height of the facility, including the replacement structure, is not more than 15 feet higher than the height of the existing structure just before the facility is installed;
- n. "equipment housing" means a combination of one or more equipment buildings or enclosures housing equipment that operates in conjunction with the antennas of a facility, and the equipment itself;
- o. "height" of a facility means the total height of the facility's supporting structure and any antennas that will extend above the top of the supporting structure; however, if the supporting structure's foundation extends more than 3 feet above the uppermost ground level along the perimeter of the foundation, then each full foot in excess of 3 feet shall be counted as an additional foot of facility height. The height of a facility's supporting structure is to be measured from the highest point of the supporting structure's foundation;

- p. "facility lot" means the zoning lot on which a facility is or will be located;
- q. "principal residential building" has its common meaning but shall not include any building under the same ownership as the land of the facility lot . "Principal residential building" shall not include any structure that is not designed for human habitation;
- r. "horizontal separation distance" means the distance measured from the center of the base of the facility's supporting structure to the point where the ground meets a vertical wall of a principal residential building; and
- s. "lot line set back distance" means the distance measured from the center of the base of the facility' s supporting structure to the nearest point on the common lot line between the facility lot and the nearest residentially zoned lot. If there is no common lot line, the measurement shall be made to the nearest point on the lot line of the nearest residentially zoned lot without deducting the width of any intervening right of way.

2. Location Guidelines

- a. A non-residentially zoned lot is the most desirable location.
- b. A residentially zoned lot that is not used for residential purposes is the second most desirable location.
- c. A residentially zoned lot that is 2 acres or more in size and is used for residential purposed is the third most desirable location.
- d. Residentially zoned lot that is less than 2 acres in size and is used for residential purposes is the least desirable location.

The size of a lot shall be the lot's gross area in square feet without deduction of any unbuildable or unusable land, any roadway, or any other easement.

3. Design Guidelines

- a. No building or tower that is part of a facility should encroach onto any recorded easement prohibiting the encroachment unless the grantees of the easement have given their approval.
- b. Lighting should be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting should be shielded so that no glare extends substantially beyond the boundaries or a facility.
- c. No facility should encroach onto an existing septic field.
- d. Any facility located in a special flood hazard area or wetland should meet the legal requirements for those lands.

- e. Existing trees more than 3 inches in diameter should be preserved if reasonably feasible during construction. If any tree more than 3 inches in diameter is removed during construction a tree 3 inches or more in diameter of the same or a similar species shall be planted as a replacement if reasonably feasible. Tree diameter shall be measured at a point 3 feet above ground level.
- f. If any elevation of a facility faces an existing, adjoining residential use within a residential zoning district, low maintenance landscaping should be provided on or near the facility lot to provide at least partial screening of the facility. The quantity and type of that landscaping should be in accordance with any county landscaping regulations of general applicability, except that paragraph e of this subsection 3 shall control over any tree-related regulations imposing a greater burden.
- g. Fencing should be installed around a facility. The height and materials of the fencing should be in accordance with any county fence regulations of general applicability.
- h. Any building that is part of a facility located adjacent to a residentially zoned lot should be designed with exterior materials and colors that are reasonably compatible with the residential character of the area.

4. Standards

- a. Except as provided in this section, no yard or setback regulation shall apply to or be required for a facility.
- b. A facility may be located on the same zoning lot as one or more other structures or uses without violating any ordinance or regulation that prohibits or limits multiple structures, buildings, or uses on a zoning lot.
- c. No minimum lot area, width, or depth shall be required for a facility, and unless the facility is to be manned on a regular, daily basis, no off-street parking spaces shall be required for a facility. If the facility is to be manned on a regular, daily basis, one off-street parking space shall be provided for each employee regularly at the facility. No loading facilities are required.
- d. No portion of a facility's supporting structure or equipment housing shall be less than 15 feet from the front lot line of the facility lot or less than 10 feet from any other lot line.

- e. No bulk regulations or lot coverage, building coverage, or floor area ratio limitations shall be applied to a facility or to any existing use or structure coincident with the establishment of a facility. Except as provided in this Section, no height limits or restrictions shall apply to a facility.
- f. The improvements and equipment comprising the facility may be wholly or partly freestanding or wholly or partly attached to, enclosed in, or installed in or on a structure or structures.

5. Approval Process

- a. A facility is permitted if its supporting structure is a qualifying structure or if both or the following conditions are met:
 - (1) The height of the facility shall not exceed 200 feet, except that if a facility is located more than one and one-half miles from the corporate limits of any municipality with a population of 25,000 or more the height of the facility shall not exceed 350 feet; and
 - (2) The horizontal separation distance to the nearest principal residential building shall not be less than the height of the supporting structure; except that if the supporting structure exceeds 99 feet in height, the horizontal separation distance to the nearest principal residential building shall be a least 100 feet or 80% of the height of the supporting structure, whichever is greater. Compliance with this paragraph shall only be evaluated as of the time that a building permit application for the facility is submitted. If the supporting structure is not an antenna tower this paragraph is satisfied.
- b. Unless a facility is permitted under paragraph a. of this section 5, a facility can be established only after the county board gives its approval following consideration of the provisions of paragraph c. of this subsection 5. The county board may give its approval after one public hearing by the Zoning Board of Appeals on the proposal, but only by the favorable vote of a majority of the members present at a meeting held no later than 75 days after submission of a complete application by the telecommunications carrier, if the county board fails to act on the application within 75 days after its submission, the application shall be deemed to have been approved. No more than one public hearing shall be required.

- c. For purposes of paragraph b. of this subsection 5, the following siting considerations, but no other matter, shall be considered by the county board or any other body conducting the public hearing:
- (1) The criteria in subsection 2 regarding location guidelines of this Section;
 - (2) Whether a substantial adverse effect on public safety will result from some aspect of the facility's design or proposed construction, but only if that aspect of design or construction is modifiable by the applicant;
 - (3) The benefits to be derived by the users of the services to be provided or enhanced by the facility and whether public safety and emergency response capabilities would benefit by the establishment of the facility;
 - (4) The existing uses on adjacent and nearby properties; and
 - (5) The extent to which the design of the proposed facility reflects compliance with subsection 3 regarding design guidelines of this Section.
- d. A county's review of a building permit application for a facility shall be completed within 30 days. If a decision of the county board is required to permit the establishment of a facility, the county's review of the application shall be simultaneous with the process leading to the county board's decision.
- e. Any public hearing authorized under this Section shall be conducted in a manner determined by the county board. Notice of any such public hearing shall be published at least 15 days before the hearing in a newspaper or general circulation published in the county
- f. Any decision regarding a facility by the county board or a county agency or official shall be supported by written finding of fact. The circuit court shall have jurisdiction to review the reasonableness of any adverse decision and the plaintiff shall bear the burden of proof, but there shall be no presumption of the validity of the decision.