

ORDINANCE 2025-03

AN ORDINANCE OF THE VILLAGE OF TUSCUMBIA BY ESTABLISHING AND ADOPTING A NEW CHAPTER 30, CELLULAR TOWERS, TO THE VILLAGE OF TUSCUMBIA CODE OF ORDINANCES, TO PROVIDE FOR REGULATION OF WIRELESS OR CELLULAR TELECOMMUNICATIONS TOWERS AND ANTENNAS, PROVIDING FOR DEFINITIONS, REGULATIONS, PROVIDING STANDARDS, REQUIRING PERMITS, PROVIDING FOR PENALTY AND ENFORCEMENT, PROVIDING FOR REPEAL AND SEVERABILITY; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE VILLAGE OF TUSCUMBIA, MISSOURI.

SECTION 1. That the Tuscumbia Code of Ordinances be amended by establishing, adopting and enacting Chapter 30 as follows, to-wit:

**CHAPTER 30
CELLULAR TOWERS**

- Section 30-1: **Intent.**
- Section 30-2: **Purpose.**
- Section 30-3: **Definitions.**
- Section 30-4: **Existing Towers or Antennas.**
- Section 30-5: **Interpretation and Applicability.**
- Section 30-6: **Setback and Height Requirements; Lighting, Advertising and Sign Restrictions.**
- Section 30-7: **Code Location Requirements.**
- Section 30-8: **Special Permit Required.**
- Section 30-9: **Removal of Abandoned Tower Requirements and Bond Requirements.**
- Section 30-10: **Screening, Landscaping, Fencing and Access Requirements; Installing Overhead or Underground Electrical Power Lines, Fiber Optics, or Other Utilities.**
- Section 30-11: **Permit Requirements.**
- Section 30-12: **Inspection and Testing.**
- Section 30-13: **Non-Interference.**
- Section 30-14: **Insurance and Hold Harmless Provisions.**
- Section 30-15: **Penalties.**
- Section 30-16: **Enforcement.**

Section 30-1: **Intent.**

Wireless telecommunications towers and antennas may be installed, erected, modified, and maintained pursuant to provisions of this Ordinance.

Section 30-2: **Purpose.**

The purpose of this Ordinance is:

1. To insure the provision of personal wireless service within the corporate boundaries of, and for the benefit of the residents of the Village of Tuscumbia and the surrounding County;
2. To protect the health, safety and general welfare of the community, public environment property, and community esthetics;
3. To minimize the visual impact of towers, antennas and associated buildings through design and sighting standards;
4. To maximize the use of existing and approved towers and buildings to accommodate multiple antennas in order to reduce the number of towers needed to serve the community; and
5. To avoid danger or damage to adjacent properties from tower failure through structural standards and setback requirements or failure through neglect.

Section 30-3: **Definitions.**

A. For purposes of this Ordinance of the Village of Tuscumbia, the terms defined in this Ordinance have the meanings given them.

1. Accessory Equipment Structure: A building or cabinet-like structure located adjacent to or in the immediate vicinity of a wireless telecommunications tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcast, cellular telephone calls, voice messaging and paging services.

2. Antenna: Equipment used for transmitting or receiving radio frequency signals which is attached to a tower, building, or other structure usually consisting of a series of directional panels, microwave or satellite dishes, or Omni directional "quip" antennas.
3. Antenna Support Structure: Any building, pole, telescoping mass, tower, tripod, or other structure which supports an antenna.
4. Base Receiver Station: Equipment that provides the link between wireless telecommunications and land-based public telephone switching networks, including radio-frequency receivers, backup power amplifiers, and signal processing hardware typically contained in a small building or cabinet.
5. Co-Location: The location of wireless telecommunications equipment for more than one provider on a common tower, building or structure.
6. Commercial Receiving and/or Transmitting Antenna: Any antenna erected to transfer information for commercial use.
7. Guyed Tower: A tower which requires the use of flexible guying cables or wires as the principal means of resisting the L designed tower loads.
8. Lattice Tower: A self-supporting three (3) or four (4) sided, open steel frame structure, used to support telecommunications equipment.
9. Mast: The portion of the outside antenna system to which the antenna is attached and the support or extension required to elevate the antenna to a height deemed necessary for adequate operation.
10. Monopole Tower: A communications tower consisting of a single pole, with no guy wire support or exposed anchors, tapering from base to top, more than thirty-five feet (35) in height, and designed to support communications equipment.

11. Personal Wireless Service: Licensed commercial wireless communications services including cellular, personal communications services (PCS), enhanced specialized mobilized radio (EMR), paging and similar services.

12. Public Property: Land, roads, buildings or other structure owned or operated by the Village of Tuscumbia.

13. Tower: Any pole, spire, structure, or combination thereof to which antenna could be attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces, if permitted.

Section 30-4: Existing Towers or Antennas.

Existing towers at the time of the adoption of this Ordinance will be allowed to continue their usage as they presently exist. However, the tower must be registered with the Village of Tuscumbia and a sign must be posted at the tower location indicating a contact person and a telephone number where they can be reached. If there is ever another antenna or transmitter installed, or if the cell tower facilities are upgraded from the original application and approved by the Village Council, the cell tower must then meet all of the specifications of this Ordinance including permits, bonds, inspections, testing, landscaping, screening, fencing and driveway access requirements.

Section 30-5: Interpretation and Applicability.

1. This Ordinance shall be interpreted consistent with the provisions of the Federal Telecommunications Act of 1934, and amended by the Telecommunications Act of 1996, and any amendments hereafter occurring.

2. This Ordinance shall apply to all persons, partnerships, limited liability companies, limited liability partnerships, corporations, and other entities seeking to locate, sight, place, modify or construct wireless telecommunications facilities within the corporate boundaries of the Village of Tuscumbia.

3. This Ordinance reserves to the Village of Tuscumbia all authority contained in State and existing Municipal Ordinances regulating land used which has been

preempted by the Federal Government pursuant to the Telecommunications Act as to the placement, construction, and modification of personal wireless service facilities.

4. This Ordinance does not apply to the use or location of private residential, citizen-band radio towers, amateur radio towers, television antennas, or public safety communication facilities owned or operated by the Village of Tuscumbia or other public municipalities.

Section 30-6: Setback and Height Requirements; Lighting, Advertising and Sign Restrictions.

A. Setback Requirements. The setback requirements for cell towers will be based on the height of the tower in order to reduce the conflicts with abutting property uses, limit the adverse visual effects on the community and the environment, address the public concern for safety, and minimize the potential damage to abutting property owners. In no event shall any tower exceed 180 feet including the antenna located on a tower. Towers must be of monopole design and must be able to accommodate at least three antennas, and co-location of antennas must be permitted. The use of guyed or lattice towers is prohibited.

B. Tower Height of Seventy-Five (75) Feet or Less. For cell towers having a height of seventy-five (75) feet or less, including antenna, the cell tower building and power including the perimeter fence, must be located a distance of three hundred (300) feet minimum from any abutting property line and no closer than Fifteen hundred (1500) feet to a residence or structure.

C. Tower Height of Eighty-One (81) Feet to One Hundred Thirty (130) Feet. For cell towers ranging in height from eighty-one (81) feet up to one hundred thirty (130) feet, including antenna, the cell tower, buildings and power equipment, including a 8' perimeter fence must be located a distance of four hundred (400) feet minimum from any abutting property line and no closer than Fifteen hundred (1500) feet to a residence or structure.

D. Tower Height One Hundred Thirty-One (131) Feet to One Hundred Eighty (180) Feet. For cell towers ranging in height from one hundred thirty-one (131) feet up to one hundred eighty (180) feet, including antenna, the cell tower, buildings and power equipment, including the perimeter fence, must be located a distance of five hundred (500) feet minimum from any abutting property line and no closer than Fifteen hundred (1500) feet to a residence or structure.

E. Lighting Restrictions. No signals or warning lights shall be permitted on any cell tower unless required by a municipal, state or federal agency.

F. Advertising and Sign Restrictions. No commercial advertising or signage shall be allowed on any cell tower.

Section 30-7: Code Location Requirements.

A. To be eligible for a special permit for construction of a communications tower, the site must be located only on property that is zoned as General Agriculture (A-1) or Industrial (I-1), and can be placed on a lot size as determined by the tower height and set back requirements. However, in no case can a cell tower be permitted on a lot size less than ten (10) acres. Towers will be prohibited in all other areas currently zoned other than stated above, and in all areas that currently have no zoning classification assigned. Towers are also prohibited in all residential areas regardless of zoning classification, platted or not, that are currently subdivided by ownership into lots of two or more of various sizes and used primarily for residential purposes. Towers are prohibited in all other zones.

B. No cellular telephone antenna, support structure, amplifiers, transmitters, or any other wireless telecommunication equipment can be installed or placed on a commercial, private or public building, water tower, or any other structure other than an actual cell tower approved by the Village of Tuscumbia.

C. A site for a new telecommunications tower shall be located a minimum distance of one-half mile from all other existing telecommunications towers, regardless of the height of the tower. This provision includes towers located inside or outside the corporate limits of the Village of Tuscumbia.

Section 30-8: Special Permit Required.

No service provider, person or corporation, or firm shall construct, modify, upgrade, enhance, or add to any communications tower or antenna facility within the village unless they have received a building permit from the Village of Tuscumbia. They shall make application for such permit on a form provided by the Village Clerk.

1. A fee of Two Hundred Fifty Dollars (\$250.00) shall be paid to the Village Clerk and The permit shall be issued by the Village of Tuscumbia for the purpose of granting the permittee authority for the placement, erection, or modification of the telecommunications tower antennas subject to special permit regulations and standards listed in this section and then only in zones permitted for construction of such towers.

2. The permit agreement may not be transferred, signed or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the Village of Tuscumbia.

Section 30-9: Removal of Abandoned Tower Requirements and Bond Requirements.

A. Removal of Abandoned Tower Requirements. Any tower that is not operated or used for a continuous period of twelve consecutive months shall be considered abandoned and the owner of said tower shall be required, at the owner's expense, to remove the tower and all associated buildings, power supply, fence, and other items associated with, and permitted with, the tower. If the tower is not removed within ninety days, the bond secured by the tower owner shall be used to remove the tower and any accessory equipment and structures. If the tower has a preexisting tower approval before implementation of these ordinances, and the tower owner has not yet obtained the bond to remove the tower, the tower owner shall be required to remove the tower at their expense. If the tower is not removed within ninety days, the tower owner shall be subject to a fine for each month the tower remains in place, and shall be subject to a mandatory injunction for the removal and the owner shall be responsible for all costs, including attorney's fees, for securing the removal.

B. Bond Requirements. When an application is filed to construct a cell tower, the applicant must obtain an estimate to remove the tower from a company acceptable to the Village of Tuscumbia and experienced in contracting for removal of towers and provide that estimate to the Village of Tuscumbia along with the application for approval of a special permit to install said tower. Upon receiving approval by the Village Council the approval will be issued when the applicant has met all of the requirements of this Code and has secured and filed with the Village of Tuscumbia a bond for a length of no less than three (3) years in an amount equal to or exceeding the estimate of the cost of removal and all associated structures, fencing, power supply, and other appurtenances connected with the tower. The bond must be provided within thirty (30) days of the date of the approval, but prior to construction beginning. Replacement bonds must be provided ninety (90) days prior to the expiration of any previous bond. At any time, the Village of Tuscumbia has good cause to question the sufficiency of the bond at the end of any three (3) year period, the permit holder must provide an updated estimate and bond in the appropriate amount. Failure to keep the bonds in effect is cause for removal of the tower at owner's expense. A separate bond will be required for each cell tower, regardless of the number of owners or the location.

Section 30-10: **Screening, Landscaping, Fencing and Access Requirements; Installing Overhead or Underground Electrical Power Lines, Fiber Optics, or Other Utilities.**

A. Screening. Tower facilities shall be visually buffered by a hedge of low maintenance evergreen plant material, or other approved opaque screening material, which effectively screens the view of the tower, building, fencing and accessory facilities. The tower owner shall be responsible for all costs of equipment, labor, and materials associated with the screening of the tower facilities.

B. Landscaping. The tower owner will be responsible for all costs associated with the landscaping requirements. A landscaping plan shall be included with the application permit to construct the tower. The plan shall include provisions for all materials to be used for the landscaping and screening. Existing trees and the natural landscape elevation surrounding the site shall be preserved to the maximum extent reasonably possible. Shrub planting materials that are used for screening shall be at minimum five-gallon evergreens capable of reaching a full height of eight (8) feet at full growth. Any trees that are planted shall be at least two (2) inches in caliper. Upon completion of the tower construction, screening and

landscaping, all maintenance of the landscaping and screening shall become the responsibility of the property owner. Plants that die or do not effectively buffer the tower, screening, or building power equipment shall be replaced within a reasonable length of time, not to exceed three (3) months, at the landowner's expense. Failure to maintain the plants shall constitute a fine to the landowner.

C. Fencing. The tower owner shall be responsible for all costs, equipment, labor around the cell tower. The fencing shall consist of a chain-link fence in type and be a minimum height of eight (8) feet. The fence must be installed around the tower site with a locking gate. The fence must have a minimum of three (3) strands of barbed wire located along the top edge of the fence and gate to prevent or discourage entry by intruders. A sign must also be posted containing the tower owner's name and contact information. Tower owner shall be responsible for maintaining the fence in good condition.

D. Access to Tower. All cell tower sites will be required to have a paved, dust-free, asphalt or concrete driveway approach and access road to the tower site based on current Village of Tuscumbia road standards. A temporary approach for the tower construction site is required to have a fifty-foot gravel entrance off the roadway. Deposits of dirt, gravel, or other similar materials on the public streets must be properly removed at the cell tower owner's expense. If not removed and cleaned in a timely manner, a fine will be assessed against the cell tower owner or abatement will occur in accordance with the general ordinances dealing with nuisance abatements. All cell towers approved for construction must obtain a driveway access permit from the appropriate governmental agency having jurisdiction over the city street, county road or state highway used to access tower.

E. Installing Overhead or Underground Electrical Power Lines, Fiber Optics, or Other Utilities. The owner of the cell tower approved for construction in the Tuscumbia city limits must obtain the proper permits from the appropriate governmental agencies that have jurisdiction over the placement of all lines, underground or overhead, within the public right-of-way of all streets, county roads, or state highways.

Section 30-11: Permit Requirements.

The owners of all towers will be required to obtain a three year special permit from the Village of Tuscumbia to operate a tower within the village limits at a cost of nine hundred dollars (\$900.00) for the first three year period. This permit must be

renewed every three years thereafter at a cost of nine hundred dollars (\$900.00) so long as the tower is operational. The permit must be renewed at least three (3) months prior to expiration of the previous permit. Failure to keep the permit current will constitute grounds for removal of the tower at the owner's expense. A thirty (30) day notice shall be given to the permit holders prior to an order for removal. A separate permit will be required for each tower regardless of owner or location. The tower owner must also provide continued proof of liability insurance every three (3) years.

Section 30-12: **Inspection and Testing.**

A. **Inspection.** The Village of Tuscumbia may at any time inspect any telecommunications tower, antenna or other facility to insure its structural integrity. The tower owners must inspect the tower every three years for structural integrity and file with the Village of Tuscumbia by June 30 a certified report from a qualified structural engineer that is licensed to practice in the State of Missouri. The Village of Tuscumbia may at any time request the tower owner to perform additional inspections if damaging winds, earthquakes, other natural phenomenon, or unexpected damages occur that may cause structural failure of the cell tower or facilities. If, upon inspection, the tower owner determines that the facility fails to comply with such applicable codes and that such failure constitutes a danger to persons or property, then the owner of the facility must immediately notify the Village of Tuscumbia. The owner shall have thirty (30) days to bring the facility into compliance with the applicable codes and standards. Failure to bring the facility into compliance within the said thirty (30) days shall constitute cause for the removal of the facility at the owner's expense.

B. **Testing.** When construction of the tower is first completed and all initial power antenna are installed on the tower, the tower owner shall be required, at their expense, to measure the non-ionizing radiation levels within thirty (30) days to determine if the emissions are within the Federal Communications Commission (FCC) guidelines for safety regarding uncontrolled exposure to the general public. In order to effectively measure the radiation levels of both directional and omnidirectional antenna at cell tower locations, the following measurements are required.

1. For cell towers with only omni-directional antennas, the owners are required to take a minimum of three (3) measurements. The measurements must be taken in a circular pattern at the base of the tower spaced at approximately one hundred twenty (120) degree increments.

2. For cell tower locations having directional antennas or a combination of omni-directional and directional antennas, a minimum of six (6) measurements must be taken in a circular pattern at the base of the tower spaced at approximately sixty (60) degree increments with the first measurement taken directly below one of the directional antenna.

c. **Notice.** The Village of Tuscumbia must be notified when the non-ionizing radiation levels are being measured so that an official of the Village can be present. Upon completion of the measurements, the tower owner shall provide the Village of Tuscumbia with a certified report indicating the actual measurements taken, and prove that they comply with the Federal Communications Commission guidelines. The tower owner shall also be required to provide proof that the meter used to measure the radiation levels has been calibrated at the normal intervals required by the manufacturer to maintain accuracy of the test equipment. Testing non-ionizing radiation installed, the number of channels (transmitters) are increased, or any other changes are made to the tower that would increase the power output at the specific location. It is required that the Village be notified when these additional tests are made so that a village official can be present and a certified report again provided as indicated above.

Section 30-13: **Non-Interference.**

All new or existing telecommunications services shall comply with all relevant Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) standards and shall not interfere with public safety and other City and private communication operations.

Section 30-14: **Insurance and Hold Harmless Provisions.**

A. A permit will not be issued until applicant files satisfactory evidence with the Village of Tuscumbia showing minimum liability coverage of 300,000/500,000/300,000 limits which protect the Village in the event an action is brought claiming liability as a result of the construction, operation or maintenance of the cellular tower.

B. The property owner must hold harmless the Village of Tuscumbia from any action, including attorney's fees, that may arise from the installation or operation of cell tower.

Section 30-15: Penalties.

A violation of these cellular tower provisions shall be punishable by fine as provided in a Schedule of Fines, as established and maintained by the Village of Tuscumbia Council.

Section 30-16: Enforcement.

In addition to fines provided in Section 30-15 above, this cell tower ordinance may be enforced by injunctive relief sought in the Missouri County District Court.

SECTION 2.

Any ordinance inconsistent with the terms and provisions of this ordinance is hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 3.

If, regardless of cause, any section, subsection, paragraph, sentence, phrase, portion or sections, subsections, paragraphs, sentences, phrases, portions or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this ordinance.

SECTION 4.

WHEREAS, an emergency and immediate necessity exists by reason of the health, safety and protection of the citizens of Tuscumbia; therefore, an emergency is hereby declared to exist by reason whereof this Ordinance shall be in full force and effect from and after its passage and approval.