

ORDINANCE NO. 920.109

AN ORDINANCE ADOPTING AMENDED ZONING REGULATIONS OF THE CITY OF FRANKLIN AND SIMPSON COUNTY, KENTUCKY IN ARTICLE 9, SECTIONS 9.7.7 THROUGH 9.7.12 AS RECOMMENDED BY THE FRANKLIN-SIMPSON PLANNING AND ZONING COMMISSION

WHEREAS, after a public hearing on Tuesday, June 4, 2019, and pursuant to KRS 100.210 and all other applicable statutes, the Franklin-Simpson County Planning and Zoning Commission approved revisions in Article 9, Sections 9.7.7 through 9.7.12 of the Zoning Regulations of the City of Franklin and Simpson County, Kentucky at a meeting held on Tuesday, June 4, 2019, and submitted the regulations to the Fiscal Court of the County of Simpson for consideration and adoption; and

WHEREAS, it is in the best interest of the County of Simpson to adopt said regulations.

NOW, THEREFORE, BE IT ORDAINED by the County of Simpson, Kentucky, acting by and through its Fiscal Court as follows:

1. The amended zoning regulations contained in Article 9, Sections 9.7.7 through 9.7.12 of the City of Franklin and Simpson County, Kentucky approved by the Franklin-Simpson County Planning and Zoning Commission on Tuesday, June 4, 2019 are hereby adopted and all of the provisions, conditions and terms of such regulations on file in the office of the Franklin-Simpson County Planning and Zoning Commission and the office of the Clerk of the Fiscal Court are hereby referred to, adopted, and made a part hereof as if fully set out in this ordinance. The additions and revisions are as follows:

9.7.7 Processing Application

Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

- a. At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, in a newspaper of general circulation in the county, provided that one (1) publication occurs not less than seven (7) calendar days not more than twenty-one (21) calendar days before the occurrence of such hearing.
- b. Notice of the proposal shall be posted by the applicant and shall remain in a visible location on the proposed site until final disposition of application. Such notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that “[Name of Applicant] proposed to construct a telecommunications tower on this site” and including the addresses and telephone numbers of the applicant and the planning commission.
- c. Notice of the proposal shall be posted by the applicant and shall remain on the

public road nearest the site until final disposition of the application. Such notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that “[Name of Applicant] proposes to construct a telecommunications tower near this site” and including the addresses and telephone numbers of the applicant and the planning commission.

- d. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by certified mail, return receipt requested, to the owner of every parcel of property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. Said notice shall include a map of the location of the proposed construction, the telephone number and address of the planning commission, and shall inform the addressee of his or her right to participate in the planning commission’s proceedings on the application. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the Property Valuation Administrator’s records as having the same address.
- e. Upon holding such hearing, the planning commission shall, within sixty (60) days commencing from the date that the application is received by the planning commission, or within a date specified in a written agreement between the planning commission and the applicant, make its final decision to approve or disapprove the uniform application. If the planning commission fails to issue a final decision within sixty (60) days, and if there is no written agreement between the planning commission and the utility to a specific date for the planning commission to issue a decision, it shall be presumed that the planning commission has approved the utility’s uniform application. In the event the application is filed in a timely manner where the planning commission’s regular scheduled monthly meeting will not accommodate a public hearing, the planning commission will request a written agreement between said commission and the applicant to extend the sixty (60) day deadline.

9.7.8 Design Standards

The applicant shall provide information demonstrating compliance with the following requirements. Where the planning commission finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the planning commission, or its duly authorized representative, may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

- a. All structures, except fences, shall be located a minimum distance from the property line or lease line of any adjoining property that is equal to one-half (1/2) the height of the tower, but not less than fifty (50) feet.
- b. A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than fifteen (15) feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The planning commission may allow antennas greater than two hundred (200) feet in height upon review of the applicant's justification that the additional height meets the criteria identified in Section 9.7.9.
- c. The cellular antenna tower shall be constructed in compliance with the current ANSI/EIA/TIA 222-F standards and other applicable state standards.
- d. Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.
- e. The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.
- f. Woven wire or chain line (eighty percent (80%) open) or solid fences made from wood or other materials (less than fifty percent (50%) open) shall be used to enclose the site. Such fences shall not be less than six (6) feet in height or more than eight (8) feet in height. The use of barb wire or sharp pointed fences shall be prohibited. Such fence may be located within the front, side, or rear yard.
- g. Screening shall be provided by evergreen trees, with a minimum height of six (6) feet, planted in a staggered pattern at a maximum distance of fifteen (15) feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten (10) feet setback.
- h. Any site to be purchased or leased for the installation of a cellular antenna tower, or alternative antenna tower, and ancillary facilities, shall be at least five thousand (5,000) square feet in area.
- i. All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three (3) service providers.
- j. All option and site lease agreements shall not prohibit the possibility of co-location.

Section 9.7.7 will be renumbered to 9.7.9.

Section 9.7.8 will be renumbered to 9.7.10.

Section 9.7.9 will be renumbered to 9.7.11.

9.7.12 Confidentiality

From the time that a uniform application is received by the planning commission, all information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky’s Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction, or when and to the extent that confidentiality is waived in writing by the applying utility.

2. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

<u>October 1, 2019</u>	FIRST READING
<u>October 15, 2019</u>	SECOND READING


At a meeting of the Fiscal Court of the County of Simpson, Kentucky, held on October 15, 2019, on motion made by Magistrate Myron Thurman, and seconded by Magistrate Nathaniel Downey, the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>YES</u>	Marty Chandler
<u>YES</u>	Myron Thurman
<u>YES</u>	Scott Poston
<u>YES</u>	Nathaniel Downey
<u>YES</u>	Mason Barnes



 MASON BARNES
 Simpson County Judge Executive

ATTEST:



 Pam Rohrs, Clerk
 Simpson County Fiscal Court