



Talbot County Board of Appeals
215 Bay Street, Suite 2
Easton, Maryland 21601
410-770-8040

Procedure for Special Exception or Modification Application (Wireless Communications Tower)

Refer to Chapter 190 of Talbot County Code, or Legislation Bill No. 1176

Please read the attached material thoroughly. The documents in the application packet should be completed and delivered to the Talbot County Board of Appeals located in the Department of Planning and Zoning. The filing fee is \$700.00, which includes a \$400.00 review fee and a \$300.00 deposit for advertising. Any portion of the advertising deposit not utilized will be returned. Checks shall be made payable to **Talbot County**, Maryland. Postage stamps or the cost of mailing associated with the attached adjacent property owners list shall be provided at the time the filing fee is paid with submittal of this application, effective July 1, 2017.

At the time the completed application is returned with all forms signed and dated, dates will be scheduled for your hearing, sign posting and other pertinent dates. The applicant/agent is responsible for noting & complying with these dates. Direct any questions to Chris Corkell, Administrative Assistant to the Board of Appeals Office at (410) 770-8040.

1. **Application for Special Exception:** Complete the "Purpose of Appeal". This informs the Board of your request. Please give a **detailed description**, may be written or typed on a separate page if needed, label as Attachment A.
2. **Special Exception Requirements:** These documents contain standards as defined in § 190-180 that you will be required to address during the hearing. They are the basis for the appeal. All questions must be addressed, do not leave any questions unanswered.
3. **Adjacent Property Owners:** The Applicant/Agent is responsible for obtaining the names and addresses of all property owners contiguous to the subject property as stated in Chapter 20, § 20-10 of the *Talbot County Code*. For purposes of this Section, contiguous means all properties adjacent to and opposite said property, measured at right angles to any intervening road or street. Said mailed notice shall be directed to the address to which the real estate tax bill on property is sent. This information can be obtained by contacting Maryland Department of Assessment and Taxation at 410-819-5920 or on their web site at <http://www.dat.state.md.us>. A copy of the tax map is needed with subject property highlighted.

Water Front Property: For parcels fronting on the water, contiguous property owner(s) also include owners of property within 1,000 feet of the subject property, whose line of sight to the subject property is entirely over water.

4. **Pending Zoning Application Zoning Sign Posting Property, Chapter 20, § 20-9:** This section informs the Applicant/Agent when and where the County sign provided sign is to be posted. Should two signs be necessary, the Planning Office will inform the Applicant/Agent and posting locations will be designated.

In addition, a sign is required for towers greater than 75 feet in height per §190-105 G (12) (b). Prior to application submittal the Applicant shall provide and erect a sign on the proposed site notifying the public of the applicant's intent to construct a wireless communications tower. Said sign design and size shall be approved by the Planning Director.

5. **Sign Maintenance Agreement:** This agreement is signed by the Applicant/Agent. The Pending Zoning sign provided by the County is to be continuously maintained in a conspicuous location on the property for 15 days prior to the hearing and returned to the Planning Office within 5 days after the hearing date, or a substantial fine may be imposed. See insert in this package for posting of the sign.
6. **Location Directions:** The Applicant/Agent is responsible for providing detailed directions to the property in question.
7. **Site Plan:** The Applicant shall submit 8 copies of the final site plan approved by the Planning Office, if Applicant received Planning Commission recommendation to the Board of Appeals. If recommendation has not been received submit 18 site plans at time of submittal along with (1) additional copy if within the 100' buffer, (1) additional copy if property is located on a state highway and (1) additional copy for any other agency that may need a copy for review.

8. **Written Acknowledgement:** When the Applicant is someone other than the owner of the property for which the Special Exception is requested, the Applicant shall attach to the application a letter of authorization from the owner stating that he/she has reviewed the application and concurs with its content and gives Applicant authorization to represent owner.
9. **Incomplete Application:** The application shall be delivered to the Talbot County Board of Appeals located in the Talbot County Planning Office. If the application is deemed incomplete in any respect, it will be returned to the applicant, and shall not be considered filed with the Department. Federal, State and/or local permits or approvals may be required to be obtained prior to application submittal acceptance.
10. **Covenants or Restrictions:** If your property has a recorded covenant or restriction please provide a copy when application is submitted to this office.
11. **Miscellaneous:** Submit all copies of any letters, affidavits, memos or documents that are referenced within your application.

Additional Information for Special Exceptions

Public Hearing Notice: Public notice shall be given for a public hearing on an application for a Special Exception by the Board of Appeals in accordance with the provisions set forth in Chapter 20, § 20-11 of the *Talbot County Code*.

Site Visit: A majority of the members of the Board of Appeals shall be required to visit the site for which the Special Exception is requested before a hearing. All structures must be staked when application is submitted to this office. However, a decision on a Special Exception shall be decided upon the basis of the evidence of record.

Recommendation of Planning Commission: Before deciding any application for a Special Exception the Board of Appeals shall seek the recommendation of the Planning Commission. The Planning Commission shall concern itself with the necessary findings when formulating its recommendations for a Special Exception. The recommendation shall be considered by the Board of Appeals, and shall become a part of the record but shall not be binding upon the Board of Appeals. The Board of Appeals may request from the Planning Office or Planning Commission such technical service, data, or factual evidence as will further assist the Board of Appeals in reaching decisions.

Modification of a Special Exception: The enlargement or alteration of the structure which was previously allowed by a Special Exception approval, shall require a Special Exception use amendment. shall be considered which does not involve the enlargement or alteration of the structure(s).

Extensions shall require a Special Exception in accordance with Chapter 190 of the *Talbot County Code*, Section 190-105 B (18) and (19).

Expiration of a Special Exception: A Special Exception shall lapse and become null and void (18) eighteen months following the date on which it was approved, unless prior to the expiration date, construction is commenced and diligently pursued toward completion, or unless the use for which the permit was granted is commenced within (18) eighteen months, or unless an application for renewal (for (18) eighteen months only) is granted by the Board of Appeals prior to the expiration date. The permit shall remain in effect so long as the use for which it was issued remains in operation.

A Special Exception shall be transferable, without formal or written confirmation to subsequent owners of a property, provided that there is no significant change in the character of the site or of the use. Any conditions attached to the approval shall continue to be binding by subsequent owners of the site/structure.

Additional Submittal Information:

Applicants applying for telecommunication tower Special Exception will be required to submit copies of correspondence and approvals from local and state agencies. See Chapter 190-105 of *Talbot County Code*, Section 190-105 C (12) and (13).

The Administrative Assistant to the Board of Appeals may not give advice with regard to this application nor is she permitted to assist in the preparation.

This original package must be returned with original signatures and dates, please contact Board's Secretary for amount of copies needed.



Appeal Number: _____

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Notice of Public Hearing

In accordance with Chapter 20, of the *Talbot County Code*, notice is hereby given that a public hearing will be held in the **Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland** on **(Date & Time)** by the Talbot County Board of Appeals to hear the following petition:

Applicant(s), Name(s) _____

_____ are/is requesting a (Variance and/or Special Exception)

Please provide name and email address of contact person _____

***Define Specific Request (See Examples Below):**

Request is made in accordance with Chapter 190 Zoning, Subdivision and Land Development Article, _____ §190-_____ of the *Talbot County Code*. Property is located on _____ in the _____ Zone, (**Refer to Talbot County Zoning Maps**). Property owner(s) are/is (Names on Deed) _____ and the property is located on Tax Map _____ Grid _____ Parcel _____, Lot _____. All persons are notified of said hearing and invited to attend. **The Board reserves the right to close a portion of this hearing as authorized by Section 10-508 (a) of the Maryland Annotated Code.**

(Example's Only)

Special Exception: Applicant(s), (Name of Applicant/Business) is requesting a Special Exception to construct a 195 foot high lattice wireless telecommunications tower with a 4 foot lightning rod for a total of 199 feet and equipment shelter within a 100' x 100' fenced area. Request is made in accordance with Chapter 190 Zoning, Article III, § 190-16, § 190-105 and Article IX, § 190-180 of the Talbot County Code..

Special Exception & C/A Variance: Applicant(s), (Name of Applicant/Business) is requesting a Special Exception to construct a 190 foot high monopole wireless telecommunications tower with an 8 foot lightning rod for a total of 198 feet and equipment shelter within a 30' x 80' fenced area. Applicant is also requesting a variance of the 25 foot non-tidal wetland buffer to 0 feet to upgrade an existing road to provide access to the proposed tower. Request is made in accordance with Chapter 190, Article III, § 190-16, §190-105, Article VI, § 190-139, Article IX, §190-180 and § 190-182 of the Talbot County Code.



Appeal Number: _____

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Wireless Communications Tower/Special Exception or Modification Application

| | |
|---------------------------------|---------------------------|
| <u>Office Use Only:</u> | |
| BOA Hearing Date: _____ | Amount Paid: _____ |
| Filing Date: _____ | Time: _____ |
| Planning Commission Date: _____ | Neighbors Notified: _____ |
| Place Ad Date: _____ | Dates of Ad: _____ |

To the Honorable, the Talbot County Board of Appeals,

Pursuant to the provisions of the Talbot County Zoning Ordinance for Talbot County, Maryland enacted June 13, 2009 or as amended, request is hereby made for:

Wireless Communication Tower

- _____ **Special Exception or Modification**
- _____ **Variances (Critical Area)**
- _____ **Variances (Non Critical Area)**

Purpose of Appeal: State fully the request/application desired and reasons therefore. Please give a detailed description, may be written or typed on a separate page if needed, label as Attachment A.

Location of Property: _____

Tax Map _____ Grid _____ Parcel _____ Lot _____ Size _____ Zone _____

Property Owner: _____

Address of Owner: _____

Telephone Number: _____ Cell Number: _____

Applicant's Name, Address and Telephone number if different from owner: _____

Has above property ever been subject of previous Board of Appeals Proceeding? _____

If so, give Application number(s) and date(s) _____

I (we) hereby certify, under penalty of perjury, that the matters and facts set forth in the a foregoing Appeal are true to the best of my (our) knowledge and belief.

Applicant(s)/Agent Signature

Date

Important: Applications on which all required information is not furnished will be returned for completion before processing, and shall not be considered filed with this department.



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Special Exception or Modification Standards
(Wireless Communication Tower)

Chapter 190 Zoning – Talbot County Code

Talbot County Board of Appeals - see Chapter 20
Chapter 190, Article IX, § 190-180 - Special Exception
Chapter 190, Article III, § 190-105 - Wireless Communication Tower

Special Exception – Burden of Proof

The applicant for a special exception shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion to all questions of fact, which are to be determined by the Board of Appeals.

A Special Exception may be granted only when the Board of Appeals finds from a preponderance of the evidence that the proposed use will satisfy all of the following standards:

- (1) The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan.

Applicant Response:

- (2) The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance.

Applicant Response:

Standards (3) and (4) have been omitted from the Wireless Communication Tower Application in accordance with Chapter 190 of Talbot County Code, see Section 190-180 D (1).

- (5) The use will not have significant adverse impact on public facilities or services including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services.

Applicant Response:

- (6) The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic.

Applicant Response:

- (7) The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other Applicable standards for road capacity.

Applicant Response:

- (8) Any vehicle access to proposed off street parking areas and drive in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. In addition, any resulting commercial and truck traffic should not use a residential street nor create a hazard to a developed residential area.

Applicant Response:

(9) Any use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife.

Applicant Response:

(10) The use will not significantly adversely affect adjacent existing agricultural uses.

Applicant Response:

All standards above must be addressed, do not leave any questions unanswered.

County action will be predicated upon the Applicant's compliance with the above.

The Applicant shall provide evidence of compliance with Chapter 190 of the *Talbot County Code*, Article II, Regulations for specific land uses as applicable.

The Applicant is responsible for providing compliance with each finding and requirement, and consistency with Chapter 190 of the *Talbot County Code*.

Applicant's/Agent Signature

Date

References:

1. Talbot County Comprehensive Plan
2. Talbot County Code
3. File

Location of all proposed structures must be staked out prior to the Board's site visit.



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Sign Maintenance Agreement

| |
|--|
| <i>Office Use Only:</i> Applicant: _____ |
| Sign No.: _____ Sign Condition Posting: _____ Sign Condition Return: _____ |
| Damages: _____ |

I (we), the petitioner(s) of this appeal, agree that I (we) will be responsible for the continuous maintenance, during the period prior to the hearing date, of the sign which I (we) agree to have posted on the property for purposes of this hearing. I (we) further agree to notify the Board of Appeals if at any time during the required posting period this sign is not properly posted.

Said sign is to be returned to Department of Planning and Zoning within five (5) days after the hearing.

Applicant's/Agent Signature

Filing Date

Applicant's/Agent Signature

Posting Date of Sign

Section below to be completed the night of the hearing

Sign Affidavit

I hereby affirm under penalties of perjury that the subject property was posted as required on _____ (date) and to the best of my knowledge, information and belief the posting remained in place until _____ (date).

___ Check if sign was returned the night of Applicant's hearing.

Signature of Applicant's/Agent

Information Purposes Only (Posting of Sign)

Notification: Unless otherwise expressly provided by law, all notices to the general public required by the terms of the *Talbot County Code*, Chapter 20, shall be accomplished as follows:

Posting of Property: The applicant shall post the property by erecting a sign furnished by the Board of Appeals Office at least 15 days prior to the public hearing. The sign shall be located on the property, nearly centered between its two side property lines, and within 10 feet from the most traveled public road. If no public road abuts the property, the sign shall be located so that the public will most readily see it. Signs shall be posted conspicuously and continuously maintained upright, visible, and free from obstruction by vegetation or otherwise, through the conclusion of all public hearings. The sign furnished by the Department of Planning and Zoning shall not be less than two (2) feet high and two (2) feet wide, and shall bear the words: Notice Zoning Application Pending. Phone 410-770-8030 for information.

At the hearing, it shall be the duty of the applicant to prove by affidavit that he has fully complied with this provision and has continuously maintained the sign or other posting in compliance with this provision up to the time of the hearing.

If the applicant is a person other than the owner, his attorney, agent or a person otherwise privy with the owner and the applicant files an affidavit stating that the owner is unwilling to permit the posting of any such sign, the posting shall be made by the Planning Officer.



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Independent Procedures Disclosure and Acknowledgement Form

Proposed Project Name: _____

Physical Address of Property: _____

Tax Map: _____ Grid: _____ Parcel: _____ Lot: _____ Zone: _____

Name of Applicant: _____

Phone Number(s): _____

Agent/Attorney: _____

Phone Number(s): _____

Applicant's Email Address: _____

Agent's Email Address: _____

Property Owner: _____

Phone Number(s): _____

Applicant acknowledges and understands:

1. This Application may be subject to local, state and federal laws, ordinances, rules, or regulations (hereafter "Laws") other than those that the Department of Planning and Zoning, Planning Commission or Board of Appeals reviews, administers, or applies in connection with this review.
2. Other agencies, including but not limited to the Talbot County Health Department, Division of Environmental Health, Maryland Department of the Environment, U.S. Army Corps of Engineers, Maryland Department of Natural Resources, US Fish and Wildlife Service and others may also have review authority over the project or development proposed in the application.
3. Applicant remains solely responsible for compliance with all applicable laws, ordinances, rules, or regulations.
4. Applicant understands that review of this Application does not necessarily include review of any other applicable laws.
5. Applicant understands that neither the Department of Planning and Zoning nor any of its employees has authority to grant permission or approval of any project or proposed development that violates any applicable law, ordinance, rule, or regulation of Talbot County, Maryland, and that any such approval issued in error has no enforceable legal effect.
6. Applicant understands that any decision issued by the Department of Planning and Zoning, Planning Commission or by the Board of Appeals does not necessarily guarantee or assure the applicant that this project or proposed development may proceed.

I HEREBY CERTIFY that I have read, acknowledge, and understand the foregoing.

Applicant Signature

Date

Attorney/Agent Signature

Date



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Checklist for 100 Feet or Higher Wireless Communications Tower
(Not to exceed 200 feet)

This document is provided for guidance purposes only. See Chapter 190 of *Talbot County Code*, § 190-105 and §190-184 for complete list of submittal requirements.

Exemptions – Private amateur (ham) radio towers are less than 75 feet are exempt from the requirements of this section. [§190-105 A]

The following requirements are applicable to all wireless communications towers regardless of height and date of construction:

Y – Yes **N** – No **N/A** – Not Applicable - Use the following to fill in checklist below.

Requirements prior to submittal:

1. _____ Proof that the site will not interfere with the County's Emergency Management Communication System. The applicant shall contact the Director of Emergency Management, and obtain written comments from the Director, prior to site plan application submittal for any new tower. [§190-105 C (12)]

2. _____ Site plan applications for a new wireless communications tower 75 feet or greater shall include copies of comments received from the Talbot County Historic Preservation Commission, the State Historic Preservation Office, the Federal Aviation Administration, the Maryland Aviation Administration, the Easton Airport, and the Medivac Unit of the State Police, and any other agency required to be notified by federal or state law. The applicant shall also contact the Maryland Department of the Environment and the U.S. Army Corps of Engineers, as applicable to the site. A site plan application shall not be accepted as complete until each of these agencies has either commented or confirmed it has no comment on the application. The applicant shall forward all comments received from these agencies to the Department of Planning and Zoning for consideration with the site plan application. At the applicant's request, the application shall be submitted to the Planning Commission to decide whether the application is complete or incomplete. If an incomplete application is not completed within thirty (30) days after written notice from the Planning Office, the matter shall be submitted to the Planning Commission for a decision on the merits of the application. However, if the applicant stipulates in writing that the application is not complete, the time for final action by the County on the application shall be extended, and shall not begin to run again until the application is completed. [§190-105 C (13)]

3. _____ Applications meeting the above criteria require major site plan review in accordance with Article IX, of the *Talbot County Code* and a building permit. [§190-105 G (5)]

4. _____ The applicant must obtain major site plan approval prior to applying for a special exception from the Board of Appeals. [§190-105 G (6)]

5. _____ Prior to submittal of the application, the applicant shall: [§190-105 G (12)]
 - (a) Notify all adjoining property owners by mail of the wireless communications tower proposal, including neighbors, across water bodies that are within 1,000 feet of the property containing the tower site.

 - (b) Erect a sign on the proposed site notifying the public of the applicant's intent to construct a wireless communications tower. Said sign design and size shall be approved by the Planning Director.

 - (c) Provide public notice in the local newspaper of the applicant's request for the new proposed wireless communications tower, identifying location, type, height, etc. at the applicant's expense. The newspaper notice shall include a map showing the proposed tower location, and be approved by the Planning Director.

6. _____ The applicant shall conduct a community meeting open to the public to discuss the proposed site plan application for any wireless communications tower. The applicant shall conduct the community meeting at least one week prior to the Planning Commission meeting at which the tower site plan application is scheduled to be reviewed. The meeting shall be held at the applicant's expense and staffing. County staff is not required to attend the community meeting. [§190-105 G (13)]

7._____ Prior to the Planning Commission meeting for site plan review, the applicant shall perform a highly visible balloon test lasting a minimum of 30 minutes. The date, location, and beginning and ending time of the test shall be published in a local newspaper at least one week prior to the test. The Planning Director shall approve the newspaper notice. The results of the balloon test shall be incorporated into a computerized simulation submitted to the Planning Office 10 days prior to the Planning Commission meeting. The computerized simulation shall illustrate the wireless communications tower at the proposed height, antenna arrangements, maximum number of collocation antennas, and the color scheme of the entire structure, including accessory structures. [§190-105 G (14)]

Requirements required at time of submittal:

- 8._____ Wireless Communication Priority Placement Areas identified on WCPPA Guidance Plans shall be given priority for new service. Applications within Wireless Communication Priority Placement Areas meeting all technical and other requirements established by this ordinance shall be presumed to provide optimal value to the County wireless communication network. Applications outside Wireless Communication Priority Placement Areas shall be subject to a presumption that they provide less than optimal value to the County wireless communication network. [§190-105 B (1)]
- 9._____ The applicant shall provide written verification that the proposed wireless communication tower is greater than 500 feet from a parcel containing a public playground, ball field or school use. Notwithstanding any other section of this chapter, this limitation shall not be subject to modification by either a special exception or variance. County-owned property may be considered suitable for a tower location on an equal basis with non-County owned property. [§190-105 B (2)]
- 10._____ The ground base of any wireless communications tower structure shall be set back from any property line, road, or public recreation area a distance that is the height of the tower plus 10 feet. Notwithstanding any other section of this chapter, this limitation shall not be subject to modification by either a special exception or variance. Any icefall or debris from tower structural failure shall be contained in the immediate tower area. Any accessory structures shall comply with the minimum building setback requirements of the applicable zoning district. These setback requirements may be reduced through a variance application as provided for in Article IX of the *Talbot County Code*. [§190-105 b (3)]
- 11._____ Wireless communications tower height shall be no higher than necessary to ensure the effective service for the relevant service area, but in no case shall exceed 200 feet. Notwithstanding any other section of this chapter, this limitation shall not be subject to modification by either a special exception or variance. [§190-105 B (4)]
- 12._____ The applicant for a wireless communications tower is required to have a letter of intent from at least two Federal Communications Commission (FCC) licensed operators to locate on the wireless communications tower at the time the application is filed with the Planning Office. The Application shall not be accepted without proof of the letter of intent that defines type of service(s) to be provided and the time schedule for commencement of services after construction. [§190-105 C (5)]
- 13._____ The wireless communications tower shall be designed to minimize adverse visual and environmental impact (e.g., paint, camouflage, screening, stealth technology, color, use of existing structures and natural landscape, etc.). All equipment shelters shall be maintained in neutral shades consistent with the natural landscape. [§190-105 B (7)]
- 14._____ The wireless communications tower and associated appurtenances shall not be lit unless required by federal or state regulations. If lighting is required, the least intensive lighting shall be used. [§190-105 B (8)]
- 15._____ The wireless communications tower shall be either a self-supporting monopole or self-supporting lattice structure. [§190-105 B (9)]
- 16._____ The applicant shall submit a licensed professional landscaping plan with the site plan application which identifies existing vegetation and specifications, including species, size, and location, of all proposed plant materials to be utilized for buffering and screening of the wireless communications tower structure and equipment structures. A secure fence or enclosure, a minimum of eight feet in height, shall enclose the entire base of the wireless communications facility. All required plantings shall be kept in a live, healthy condition. Any plants not in a live healthy condition shall be replaced by the applicant to the satisfaction of the Planning Director. [§190-105 B (10)]

- 17._____ An abandoned wireless communications tower shall be removed within 90 days of abandonment. If the owner of the tower does not remove the tower, the County may utilize the financial surety to do so and any excess cost of the removal of the tower shall be borne by the property owner of the land on which the tower is located. Talbot County shall retain the right to place a lien against the property until all such excess costs are paid. [§190-105 B (12)]
- 18._____ A sign shall identify the property owner, tower owner, contact phone number, and emergency information, and shall comply with the sign requirements of the *Talbot County Code*, Chapter 190. Information on the sign shall be current, and the tower owner shall notify the Planning Director of any information change. [§190-105 B (13)]
- 19._____ Panel antennas shall not exceed seven feet in height or two feet in width. Whip antennas shall not exceed 12 feet in height or six inches in diameter. Satellite or dish antennas shall not exceed six feet in diameter. Applicants requesting an exception to the maximum sizes stated above shall be required to apply for a variance from the Board of Appeals. [§190-105 B (14)]
- 20._____ Existing wireless communications towers may be demolished and an in-kind replacement constructed within the approved compound of the original tower. The original tower must be removed within 60 days after the completion of the replacement tower. The in-kind replacement may not exceed the height of the original tower or its appurtenances, and all new antenna arrays and dishes must comply with the maximum size criteria. Replacement wireless communications towers shall be submitted for a site plan review in accordance with Article IX, of the *Talbot County Code* and receive a recommendation from the Planning Commission. [§190-105 B (15)]
- 21._____ Calculation of height limits for new wireless communications towers shall be measured from the lowest finished grade elevation at the base to the highest point of the tower to include the tower and all antennas, lightning rods and miscellaneous appurtenances. The lowest finished grade elevation may not be changed from the pre-existing natural topography without prior approval from the Planning Director. [§190-105 B (16)]
- 22._____ The applicant for a new wireless communications tower outside of a Wireless Communication Priority Placement Area shall provide documentation with the site plan application proving that existing wireless communications towers and other existing structures over 50 feet in height within a one-mile radius of the proposed location and structures 100 feet or higher from a one-mile to two-mile radius of the proposed location are not viable collocation opportunities. [§190-105 B (17)]
- 23._____ Extension of wireless communications towers above the initial approved height shall require a special exception amendment if the original tower was 100 feet or higher. [§190-105 B (18)]
- 24._____ Extension of wireless communications towers to 100 feet or higher after initial construction of a tower less than 100 feet shall require a special exception. [§190-105 B (19)]
- 25._____ Extension of wireless communications towers to 75 feet, but still less than 100 feet after initial construction of a tower less than 75 feet, shall require a site plan review in accordance with Article IX, of the *Talbot County Code* and receive a recommendation from the Planning Commission. [§190-105 B (20)]
- 26._____ All wireless communication tower owners must comply with all federal, state or local laws or regulations, as amended, concerning electromagnetic radiation and other electronic emissions applicable to the facility within 120 days of the effective date of the regulations. [§190-105 B (22)]
- 27._____ The name, address and telephone number of the corporate headquarters and local office, and current contact information for each office. [§190-105 C (1)]
- 28._____ Proof of ownership of the proposed wireless communications tower site or proof of contract or license with owner of the site and the right to construct and operate the proposed tower. [§190-105 C (2)]
- 29._____ A copy of FCC license number, date of issuance, and type of license (cellular, PCS, etc.). [§190-105 C (3)]
- 30._____ A master report plan of applicant's current proposed communication network for Talbot County, including an illustrative wireless communications map detailing existing and proposed wireless coverage, antenna sites and collocation sites. [§190-105 C (4)]
- 31._____ The current zoning of proposed wireless communications tower site. [§190-105 C (5)]

- 32.____ The maximum proposed wireless communications tower height. [§190-105 C (6)]
- 33.____ The maximum proposed height of antenna in feet above ground level (AGL). [§190-105 C (7)]
- 34.____ The wireless communications tower design (self-supporting lattice or monopole). [§190-105 C (8)]
- 35.____ The number of potential collocation sites on the proposed wireless communications tower. [§190-105 C (9)]
- 36.____ The name, address, and telephone number of the responsible entity for removal of the wireless communications tower if the tower's use is discontinued for 12 or more continuous months. [§190-105 C (10)]
- 37.____ Wireless communication towers proposed outside of a Wireless Communication Priority Placement Area shall provide an analysis of the nearest Priority Placement Area and a detailed narrative as to why sites within this area are unsuitable, with the site plan application. [§190-105 C (11)]
- 38.____ A written statement that collocation sites on the tower shall be made available for lease at fair market rates. [§190-105 C (14)]
- 39.____ Information on the type(s) of service (data or voice) to be provided by operators locating on the tower. [§190-105 C (15)]
- 40.____ The time period before voice or data service will commence once the tower is constructed. [§190-105 C (16)]
- 41.____ All wireless communications tower applications 100 feet or higher shall require a special exception in accordance with §190-180D. When considering approval or denial of a special exception application, the Board of Appeals shall place greater emphasis on the impact of a proposed tower site on the surrounding community when it is located outside of a Wireless Communication Priority Placement Area or within a three-mile radius of an existing wireless communications tower that is greater than 75 feet in height. [§190-105 G (4)]
- 42.____ The new construction of a tower from 100 feet to less than 150 feet shall be designed to support a minimum of three FCC-licensed operators. [§190-105 G (7)]
- 43.____ The new construction of a tower from 150 feet to less than 180 feet shall be designed to support a minimum of five FCC-licensed operators. [§190-105 G (8)]
- 44.____ The new construction of a tower from 180 feet to 200 feet shall be designed to support a minimum of six FCC-licensed operators. [§190-105 G (9)]
- 45.____ Allowed by special exception in all zoning districts except Rural Residential (RR), Town Conservation (TC), Town Residential (TR) and Village Center (VC) if the individual antennas meet the size criteria stated in the general requirements section and at-grade mechanical equipment meets applicable zoning requirements. [§190-105 G (10)]
- 46.____ The applicant shall provide evidence substantiating that construction of a new wireless communications tower shall not be detrimental to the use, peaceful enjoyment, or economic value of neighboring properties. [§190-105 G (11)]
- 47.____ A project location map and narrative description of the proposed wireless communications tower site documenting the area of potential effect, including, but not limited to, residential properties, public rights-of-way, historical sites, parks, conservation areas and other significant existing structures, shall be provided. [§190-105 G (15)]
- 48.____ At the time of site plan application, the applicant shall submit copies of the antenna propagation analysis or drive test studies used for analysis, type of coverage (i.e., single or system), including a coverage and interference analysis. [§190-105 G (16)]
- 49.____ If located outside of a Wireless Communication Priority Placement Area, the applicant shall provide a coverage/interference analysis and capacity analysis with the site plan application that demonstrates that the location of the antenna as proposed is necessary to meet the frequency reuse and spacing needs of the wireless communications facility and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antenna at an alternative site. [§190-105 G (17)]

50. ____ At the applicant's expense, the site plan application for a new wireless communications tower shall be accompanied by a report prepared by an independent engineer stating:
[§190-105 G (18)]
- (a) It is technically impossible to provide a reasonable level of service by collocating wireless communications antennas on existing structures and that existing wireless communications towers are not adequate to meet the coverage needs for any proposed wireless communications tower, if located outside of a Wireless Communication Priority Placement Area, and provide sufficient factual detail to support those conclusions.
 - (b) The proposed wireless communications tower and attached antenna does not exceed the minimum height necessary to accomplish the purpose for which it is constructed, and in no case shall exceed 200 feet.
 - (c) Frequency of transmission of all proposed antenna on the wireless communications tower.
 - (d) Power and size of proposed antenna in effective radiated power (ERP).
 - (e) Azimuth of antenna.
 - (f) Down-tilt of antenna.
 - (g) Calculations utilized to justify design requirements (i.e., engineering trade-off analysis between height, ERP, antenna performance and coverage area).
 - (h) The wireless communications tower has sufficient structural integrity for its current and future use, including multiple collocation antennas and that the tower facility complies with all American National Standard Institute (ANSI) standards. Factors to be stated are the maximum wind load and snow/ice load calculations.
51. ____ The Board of Appeals may require a review of the applicant's engineer's report by an independent consultant of its choosing, cost of the review to be borne by the applicant.
[§190-105 G (19)]

Requirements prior to building permit:

52. ____ The applicant is required to have at least two FCC licensed operators under contractual agreement to locate on the wireless communications tower prior to issuance of a building permit. [§190-105 B (6)]
53. ____ The owner of a wireless communications tower shall provide financial surety in a form and amount acceptable to the County to secure payment of 125% of the cost of removal of the tower, base, foundation to six feet below ground level, and accessory structures if the tower's use is discontinued for 12 or more continuous months. The surety instrument shall be provided prior to building permit application or for towers existing before adoption of this section, no later than 90 days after the effective date of this ordinance and shall be renewable on January 1st of each year and shall remain in full force and effect while the tower remains in place, and shall require the obligor and the tower owner to provide at least 90 days prior written notice to the County of either its intended expiration or non-renewal. The Department of Planning and Zoning may increase the amount of the surety as necessary from time to time to insure the amount is adequate to cover the cost of removal. [§190-105 B (11)]

Requirements after construction:

54. ____ All tower owners must submit a certificate of compliance with all current Federal Communication Commission regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility within 90 days of final construction, collocation and activation of equipment. [§190-105 B (21)]
55. ____ Tower owners shall submit a report annually in January describing the services provided from the tower on a wireless communication license and registration form to be provided by the Office of Planning and Zoning. Owners of towers existing prior to adoption of this section shall submit a report no later than 90 days after the effective date of this ordinance, and annually by January 31st each year thereafter. The Planning Director may assess fines or revoke the annual tower license if the report is not provided by January 31st of each year. [§190-105 B (239)]

- 56.____ Once a tower is erected, financial surety is accepted by the County and upon final building permit compliance inspection; the applicant shall apply for and obtain a wireless communication facility license. Owners of towers existing prior to adoption of this section shall apply for an annual license no later than 90 days after the effective date of this ordinance, and annually by January 31st each year thereafter. The license shall be renewed annually provided the provisions of this ordinance and all state and federal requirements are met. The annual license fee shall be determined in accordance with a fee schedule as adopted by the County Council. [§190-105 B (24)]
- 57.____ Revocation of the annual County license shall constitute abandonment of the wireless communication tower. An abandoned wireless communication tower shall be removed in accordance with section (12) above. [§190-105 B (25)]
- 58.____ The Board of Appeals may require a review of the applicant's engineer's report by an independent consultant of its choosing, cost of the review to be borne by the applicant. [§190-105 G (19)]

General collocation requirements:

The following requirements apply to all wireless communications collocation applications.

- 59.____ Collocation is permitted in all zoning districts if the individual antennas meet the size criteria stated in the general requirements section, the antennas are mounted on an existing structure, and the at-grade mechanical equipment meets all applicable zoning requirements. [§190-105 D (1)]
- 60.____ The applicant shall obtain a building permit for collocation on an existing wireless communications tower. Prior to building permit application, collocation on structures other than existing wireless communications towers located in all zoning districts shall require a site plan review in accordance with Article IX, of the *Talbot County Code* including a recommendation from the Planning Commission. [§190-105 D (2)]
- 61.____ As a condition of permitting and continued operation, collocation space on wireless communications towers constructed after January 26, 2002 shall be made available for lease at fair market rates. [§190-105 D (3)]
- 62.____ All building permits shall contain a provision granting Talbot County the right of first refusal to lease or purchase tower space for installation of public telecommunications and data transmission equipment or antennas at negotiated fair market rates. [§190-105 D (4)]