

ORDINANCE

-TO CREATE CHAPTER 13 OF THE DUNN COUNTY COMPREHENSIVE ZONING ORDINANCE.

The County Board of Supervisors of the County of Dunn does ordain as follows:

SECTION 1. That Chapter 13 of the Dunn County Comprehensive Zoning Ordinance be created as follows:

Chapter 13

TELECOMMUNICATIONS FACILITIES

Sections:

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13.001 Purpose. The purpose of this chapter is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers, antennas and facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Dunn County as set forth within the goals, objectives and policies of the Dunn County Zoning Ordinance, to encourage managed development of telecommunications facilities, while at the same time not unduly restricting the development of needed telecommunications facilities.

It is intended that Dunn County shall apply these regulations to accomplish the following:

- A. Minimize adverse visual effects of telecommunications towers, antennas and facilities through design and siting standards.
- B. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Dunn County law enforcement, fire and emergency response network
- C. Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Dunn County citizens.

- D. Protect environmentally sensitive areas of Dunn County by regulating the location, design and operation of telecommunications towers, antennas and facilities.
- E. Encourage the use of alternative support structures, co-location of new antennas on existing telecommunications towers, and construction of towers with the ability to locate four or more providers.

13.005 Definitions.

- A. The following definitions shall apply to this chapter unless the context dictates otherwise. All definitions in Chapter 12 shall apply unless specifically defined in this chapter.
 - 1. “Alternative support structure” means structures including but not limited to clock towers, steeples, silos, light poles, water towers, free-standing chimneys, utility poles and towers, towers, buildings or similar structures that may support telecommunications facilities.
 - 2. “Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.
 - 3. “Antenna building mounted” means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.
 - 4. “Antenna ground mounted” means any antenna with its base placed directly on the ground.
 - 5. “Camouflaged tower” means any telecommunications tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas.
 - 6. “Carrier” means companies licensed by the Federal Communications Commission (FCC) to build personal wireless telecommunications facilities and operate personal wireless telecommunications services. Also called a provider.
 - 7. “Co-location” means a telecommunications facility comprised of a single telecommunications tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.
 - 8. “Guyed structure” means a telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
 - 9. “Height, telecommunications tower” means the distance measured from the original

grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, and lighting.

10. “Lattice structure” means a telecommunications tower that consists of vertical and horizontal supports and crossed metal braces.
11. “Monopole structure” means a telecommunications tower of a single pole design.
12. “Operation” means, means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.
13. “Platform” means a support system that may be used to connect antennas and antenna arrays telecommunications towers or alternative support structures.
14. “Provider” see “Carrier”
15. “Satellite dish” means a device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.
16. “Telecommunications facility” means a facility, site, or location that contains one or more antennas, telecommunications towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals, excluding facilities exempted under 13.010.
17. “Telecommunications facility structure” means a telecommunications tower or alternative support structure on which telecommunications antenna(s) may be mounted.
18. “Telecommunications tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under 13.010.
19. “Utility pole mounted antenna” means an antenna attached to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light, or other approved similar structure.

13.010 Exemptions. Exempt from review under Chapter 13 will be: television antennas, satellite dishes, receive only antennas, amateur radio facilities, mobile services providing public information coverage of news events or of a temporary or emergency nature, ground mounted antennas not exceeding 45 feet in height, building mounted antennas not exceeding 25 feet above the highest part of the building to which they are attached, utility pole mounted antennas not exceeding 25 feet above the highest part of the utility pole to which

they are attached. Exempt structures under this chapter are subject to all other applicable provisions of the zoning code.

13.020 Areas Where Telecommunications Facilities May Be Allowed Or Prohibited.

- A. Telecommunications facilities may be allowed as a special excepted use in the following zoning districts, subject to public hearing, review and approval by the Board of Adjustment:
 - 1. Exclusive Agricultural District, subject to meeting the requirements of Wis. Stat. § 91.01 (10). (A1)
 - 2. Agriculture District (A2)
 - 3. Agricultural Residential District (A3)
 - 4. Commercial District (C)
 - 5. Restricted Commercial District (C)
 - 6. Industrial District (I)

- B. Telecommunications facilities, except exempt facilities, shall not be allowed in the following areas:
 - 1. Historic sites and districts listed on the National Register of Historic Places
 - 2. Wetlands
 - 3. Zoning Districts:
 - a. Rural Housing District (RH)
 - b. Residential District (R1)
 - c. Residential District (R2)
 - d. Shoreland and Recreational District (SR)

13.030 Special Exception Permit. A special exception permit is required for all telecommunications facilities, except exempt facilities. Chapter 9 shall apply to all telecommunications facilities. In addition to the information required by 9.3.01 and 9.3.03, the application shall include the following:

- A. An original signature of the applicant, land owner, lessees and holders of easements. The identity of the carrier, service provider, applicant, landowner and their legal status. The name, address and telephone number of the officer, agent or employee responsible for the application.

- B. A plat of survey showing the parcel boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.

- C. A legal description of the facility site.

- D. In the case of a leased site a lease agreement, binding lease memorandum or a copy of the portion of the lease which shows on its face that it does not preclude the facility owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.

- E. A description of the telecommunications services that the applicant offers or provides to persons, firms businesses or institutions.

- F. Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.
- G. Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- H. An alternatives analysis, prepared by a radio frequency engineer, shall be submitted by the applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities, for review by the department and the Board of Adjustment. The analysis shall identify all reasonable, technically feasible, alternative locations or facilities which could provide the proposed telecommunications service. The analysis shall include a propagation map(s) for the proposed facility and all other existing telecommunications facilities or locations within a 3-mile radius of the proposed facility. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Independent verification of the analysis is required at the applicants expense.
- I. Plans showing security measures such as, but not limited to, access, fencing and lighting.
- J. A tabular and map inventory of all of the applicant's existing telecommunications facilities located within Dunn County and including all of the applicants' existing telecommunications facilities within 1,500 feet of the county boundary. The inventory shall specify the location, height, type and design of each of the applicants' existing telecommunications facilities and the ability of the facility or telecommunications facility structure to accommodate additional co-location antennas.
- K. A corridor staging plan and map showing the applicant's future telecommunications facility locations within Dunn County and within 1,500 feet of the county boundary. The plan and map shall include all telecommunications facility locations anticipated.
- L. A report prepared by a structural engineer licensed by the state of Wisconsin certifying the structural design of the tower and its ability to accommodate at least three additional antennas.
- M. Proof of liability coverage.
- N. Such other information as the department or the board may reasonably require.

13.040 Co-location. Co-location shall be the preferred method for establishing new telecommunications facilities. Every effort shall be made to co-locate the proposed facility on existing telecommunications facilities or other similar facilities or alternative support structures. Any applicant requesting permission to install a new telecommunications tower shall provide evidence of written contact with all wireless service providers who have telecommunications facilities within 3 miles of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be presented to the department as a means of demonstrating the need for a new tower. Supporting evidence of the need for a new tower may consist of any of the following conditions:

- A. No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
- B. Existing towers or alternative support structures are not of sufficient height to meet the applicant's engineering requirements.
- C. Existing towers or alternative support structures do not have sufficient strength to support the applicant's proposed antenna and related equipment.
- D. The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or alternative support structure or the system on the existing tower or alternative support structure would cause interference with the applicant's proposed system.
- E. The fees, cost or contractual provisions required by the owner to share an existing tower or alternative support structure or to adapt an existing tower or alternative support structure for sharing are unreasonable. Costs are considered reasonable if they conform to contractual terms standard in the industry within the west-central Wisconsin area or do not exceed the cost of new tower development.
- F. The applicant demonstrates that there are other limiting factors that render existing towers or alternative support structures unsuitable.

13.050 Design Requirements.

- A. Lattice towers may be allowed if all other requirements of this chapter are met.
- B. Monopole structures may be allowed if all other requirements of this chapter are met.
- C. Guyed structures are discouraged and may only be allowed if the applicant demonstrates to the satisfaction of the Board of Adjustment no other type of telecommunications facility structure will provide an equivalent level of service. Economic considerations shall not be used in determining whether a guyed structure may be used.
- D. Height of all telecommunications towers shall be limited to less than 200 feet unless the applicant can demonstrate to the satisfaction of the Board of Adjustment that a greater height is necessary to provide coverage meeting the minimum requirements of the Federal Communication Commission (FCC) license(s). The applicant must demonstrate that there are no other feasible locations within 3 miles of the proposed site that would provide functionally equivalent service to the minimum FCC requirement without the maximum height requirement.
- E. New towers shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least 3 additional users (minimum of 4 total users required for each telecommunications facility structure). Towers must also be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at different heights. The requirement for construction to allow a minimum of 3 additional users may be waived by the Board of Adjustment if evidence is provided that a special circumstance exists that would prevent the proposed telecommunications facility structure from feasibly supporting additional antennas and users. Telecommunications facilities

permitted under this chapter shall allow other users to lease space on the telecommunications facility structure up to the maximum number of users allowed by permit. The owner/operator of the facility shall make space available at market rates and with contractual terms standard in the industry within the west-central Wisconsin area. The owner/operator may refuse to lease space on the telecommunications facility structure if the proposed system would cause electromagnetic interference with the system(s) on the existing telecommunications facility structure or the system(s) on the existing telecommunications facility structure would cause interference with the proposed system, subject to verification by the department.

13.060 Performance Standards.

- A. Monitoring & Reporting. The applicant shall monitor the telecommunications facility to insure full compliance with Federal Communication Commission (FCC) regulations. A report shall be submitted to the department within one month of activation of the facility. The applicant shall submit a report to the department on an annual basis thereafter. The department may employ a radio frequency engineer, at the applicants' expense, to review the reports.
- B. Removal. The applicant or owner of the telecommunications facility shall provide a bond, letter of credit or other suitable financial guarantee as determined by the Board of Adjustment to ensure the removal of the facility including all subsurface structures a minimum of three feet below grade, and restoration of the site to its pre-construction state when use of the facility has been discontinued or the facility has not been used for its permitted purpose for 12 consecutive months. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility. The telecommunications facility(s) shall be removed when use of the facility(s) has been discontinued or the facility(s) has not been used for its permitted purpose for 12 consecutive months. Mere intent to continue use of the facility(s) shall not constitute use. The applicant/owner shall demonstrate through facility(s) lease(s) or other similar instruments that the use will be continued without a lapse of more than 12 consecutive months to constitute actual use. If the applicant cannot demonstrate actual use the facility shall be considered abandoned and shall be removed. Nothing in this section prevents the removal of the facility prior to expiration of the 12 month period.
- C. Security. All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a 6 foot high chain link fence with a locked gate. Guy anchors of guyed towers shall be similarly protected.
- D. Signs. Signs shall be mounted on the fenced enclosure, on or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency. The sign shall be no larger than 6 square feet. No commercial advertising signs may be located on the telecommunications facility site.
- E. Screening & Landscaping. All telecommunications facilities, except exempt facilities, shall be designed to blend into the surrounding environment to the greatest extent feasible.

1. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped and maintained with a buffer of plant materials that effectively screen the view of all facility structures, equipment and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the area where tower accessory structures and equipment are located at ground level.
 2. In locations where the visual impact of the facility would be minimal the landscaping requirement may be reduced or waived by the Board of Adjustment. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible or replaced with vegetative screening meeting the intent of this section.
 3. Upon project completion the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping during the current growing season.
- F. Lighting. No lighting of the principal telecommunications facility structure, either from ground mounted or telecommunications facility structure mounted lights, shall be allowed unless required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC). If required, telecommunications facility structure mounted lighting shall be limited to red flashing lights from sunset to sunrise. White strobe or other similar lighting may be allowed from sunrise to sunset. Lighting of accessory structures and the facility site may be permitted by the Board of Adjustment if it is of low intensity, directed inward and downward and is limited to within the facility site boundary.
- G. Separation and Setbacks. No telecommunications facility shall be located within 500 feet of a residence not on the property on which the facility is located without written permission of the owner of the residence at the time of application for a permit. This requirement does not apply to building mounted antennas or antennas mounted on alternative support structures. A telecommunications facility shall be setback a minimum 100% of the towers height from all property lines or boundaries of a leased site unless the tower has been designed by a structural engineer, licensed in the State of Wisconsin, to collapse within a lesser distance. In no case shall the setback from all property lines or boundaries of a leased site be less than 50% of the tower height or that required for the zoning district in which the facility is located, whichever is greater.

13.070 Accessory buildings. Accessory buildings, structures, cabinets and other accessory facilities may be allowed and shall not exceed 15 feet in height, measured from the original grade, and 250 square feet in area. All visible surfaces shall be constructed of non-reflective materials and designed to blend with the existing architecture in the area.

13.080 Pre-existing Telecommunications Towers and Facilities. Existing, legal, nonconforming telecommunications towers and facilities may add to, move or replace antennas or other transmitting or receiving devices upon review and approval of the department. Routine maintenance and repair on telecommunications facilities is permitted.

13.090 Compliance and revocation. The telecommunications facility shall be subject to Chapter 9 unless more specifically addressed by this chapter.

13.100 Administration. Chapter 9 shall apply.

13.110 Transferability. Permits granted under this chapter go with the land and are transferable. All chapter and permit requirements shall apply to subsequent owners. The department shall be notified of any change in ownership including, but not limited to, facility leases, mortgages, liens or other instruments which may affect title to the property.

13.120 Telecommunications Facility Fees. The following fee schedule shall apply:

A. Alternative analysis cost plus	\$250.00
B. Initial and annual report	\$250.00
C. Forfeiture for failure to submit a report	\$100.00-\$500.00 per day

The Planning Resources and Development Committee shall have the authority to adjust said fees.