

Appendix E – Town Ordinances

AN ORDINANCE REGULATING WIRELESS COMMUNICATION FACILITIES IN THE TOWN OF SHERMAN

WHEREAS, the Federal Communications Commission (FCC) has issued wireless communication licenses for personal communications services and other wireless technologies in order for those license holders to provide wireless services throughout the United States; and

WHEREAS, the growing demand from citizens and businesses for new wireless communications services has produced an increased need for the installations of wireless communication facilities; and

WHEREAS, the location, siting, design and construction of wireless communication facilities can have adverse impacts on celestial observation and the surrounding area;

NOW, THEREFORE, to accommodate the communication needs of residents and businesses while protecting health, safety, and welfare, to minimize adverse visual effects of wireless facilities through careful design and siting standards, to avoid potential hazards or damage to adjacent properties from tower failure through structural standards and setback requirements, to maximize the use of existing and approved towers and structures for new wireless communications antennas, and to reduce the number of towers needed to serve the area, the Sherman Town Board do ordain as follows:

DEFINITIONS:

- 1) **Alternative tower structure.** Any structure not specifically designed or intended for the placement of antennas and wireless communication equipment.
- 2) **Antenna.** Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel) or parabolic antenna (disc).
- 3) **Collocation.** The location of more than one antenna or set of antennas on the same tower structure.
- 4) **FAA.** Federal Aviation Administration.
- 5) **FCC.** Federal Communications Commission.
- 6) **Height.** The distance measured from ground level to the highest point on a tower or structure, including any attachments.

- 7) **Tower(s).** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including guy towers, monopole towers and self-supporting lattice towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.
- 8) **Tower accessory structure.** Any structure located at the base of a tower for housing base receiving or transmitting equipment.
- 9) **Wireless Communications.** Any personal wireless services as defined in the Telecommunications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.
- 10) **Residence.** Any structure, designed and/or used for human habitation.

APPLICABILITY

- 1) **Preexisting Towers and Antennas.** Any tower or antenna for which a permit has been issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance, however any addition or change to a preexisting tower or antenna shall comply with all applicable requirements of this ordinance.
- 2) **AMATEUR RADIO and RECEIVE ONLY ANTENNAS.** This ordinance shall not govern the installation of any tower or antenna that is owned and/or operated by a federally licensed amateur radio operator, or is used exclusively as an receive-only antenna.

GENERAL REQUIREMENTS

- 1) All towers and antennas shall comply with all FCC and FAA rules, regulations and standards. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such tower and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owners expense.
- 2) Design and installation of all towers shall comply with the manufacturer's specifications. Plans shall be approved and certified by a registered professional engineer.

- 3) Installation of all towers and antennas shall comply with all applicable state and local building and electrical codes.
- 4) For leased sites, written authorization for siting the wireless communication facilities from the property owner must be provided.
- 5) All towers and antennas must be adequately insured for injury and property damage. Please see Appendix A for detailed insurance requirements.
- 6) All unused towers and antennas must be removed within 12 months of cessation of operation or use, unless a written exemption is provided by the Sherman Town Board. After the facilities are removed, the site shall be restored to its original condition, including anchoring elements. In order to ensure timely removal and site restoration, the Sherman Town Board, at its option, may require the applicant to provide a performance bond in an amount equal to the estimated cost for tower removal and site restoration. In calculating the estimated cost for tower removal and site restoration, the total of (1) original costs for site preparation, and (2) all tower construction costs, and (3) an adjustment for inflation over the estimated life of the tower, shall be used.
- 8) Only one tower is permitted on a parcel of land. Additional towers may be permitted with a special exception permit if the additional tower is located within 200 feet of the existing tower and all other requirements of this ordinance are met.
- 9) The monopole design is the preferred tower structure. Use of guy or lattice towers must be justified on the basis of collocation opportunities or specific structural requirements.
- 10) The construction or installation of any wireless communication facilities or related equipment requires a building permit from both Iron County and the Town of Sherman prior to beginning installation or construction. Also required is payment of permit fees in accordance with fee schedules then in effect.

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PROHIBITIONS

- 1) No tower shall be over 300 feet in height.
- 2) No tower or antenna may be installed on a parcel within a subdivision or zoning district created for residential purposes.
- 3) No advertising message or sign shall be affixed to any tower or antenna.
- 4) Towers and antennas shall not be artificially illuminated unless required by FCC or FAA regulations.
- 5) No part of any tower or antenna shall extend across or over any right-of-way, public street, highway, sidewalk, or property line.

- 6) All visible light emitting devices shall be prohibited from being used on any tower at any time with the exception of the requirements by the FCC or FAA for safety purposes.
- 7) Whenever any tower is required to have flashing type lighting or illumination, the use of red flashing lights shall be required during the night time hours as opposed to white strobe lights unless otherwise federally mandated.

LOCATION / SITING STANDARDS

- 1) Tower structures shall be setback from the nearest property line a distance equal to 200% of the height of the tower plus the distance of any attachments extending above or beyond the tower. This setback may be reduced to 150 % percent of the combined height of the tower plus any attachments if the applicant submits an engineering report from a registered professional engineer that certifies that the tower is designed and engineered to collapse upon failure within the distance from the highest point of the structure to the property line.
- 2) Towers shall not be located within 500 feet of any residence other than the residence on the parcel on which the tower is to be located.
- 3) New towers shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least 2 additional users. . Towers must also be designed to allow for future rearrangement of antennas on the tower and accept antennas mounted at different heights. (See Co-location Standards)

SCREENING AND LANDSCAPING STANDARDS

The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped with a buffer of plant materials that effectively screens the view of all tower accessory 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. In locations where the visual impact of the tower would be minimal the landscaping requirement may be reduced or waived by the governing authority. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible.

Security Fencing and Lighting

- a) All towers shall be reasonably protected against unauthorized access. The bottom of the tower from ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of 6 feet high chain link fence with a locked gate.

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- b) Security lighting for on-ground facilities and equipment is permitted, as long as it is down shielded to keep light within the boundaries of the site.

Color and Materials

- a) All towers and antennas shall use building materials, colors, textures, screening and landscaping that blend the facilities with the surrounding natural features and built environment to the greatest extent possible., The tower shall be painted light blue or other color that is demonstrated to minimize visibility.

- b) All metal towers shall be constructed or treated with corrosion resistant material.

Parking and Access

Adequate parking spaces shall be provided on each site so that parking on public road right-of-way will not be necessary. The Town of Sherman may require additional parking if the minimum parking proves to be inadequate. A gated, all-weather driveway must provide access.

COLLOCATION/SHARING OF FACILITIES

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Supporting evidence may consist of any of the following conditions:

- 1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

- 2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

- 3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

- 4) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing tower of structure would cause interference with the applicant's proposed system.

- 5) The fees, cost, or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are considered unreasonable.

- 6) The applicant demonstrates that there are other limiting factors that render existing towers or structures unsuitable.

APPLICATIONS

All applications for building permits for new wireless communication facilities shall include the following information:

- 1) A report from a registered professional engineer and other professionals which:
 - a) describes the tower height and design, including a cross section and elevation;
 - b) certifies the facility's compliance with structural and electrical standards;
 - c) describes the tower's capacity, including the potential number and type of antennas that it can accommodate;
 - d) describes the lighting to be placed on the tower or required by the FCC or FAA;
 - e) certifies that the facilities will not cause destructive interference with previously established public safety communications system;
 - f) describes how the requirements and standards of these ordinances will be met by the proposed facilities.
- 2) Each application shall include a facility plan. The Town of Sherman will maintain an inventory of all existing and proposed wireless communication site installations, and all providers shall provide the following information in each plan. The plan must be updated with each submittal as necessary.
- 3) Written description of the type of consumer services each provider will provide to its customers (cellular, PCS, SMR, ESMR, paging or other anticipated wireless communication services).
- 4) Provide a list of all existing sites, existing sites to be upgraded or replaced, and proposed cell sites within the county for these services to be provided by the provider.
- 5) Provide a map of Iron County and all adjacent Counties that abut the Town of Sherman which shows the geographic service areas of the existing and proposed sites.
- 6) A visual impact statement and maps shall be provided with all applications. This is necessary to aid in determining the visual impact of the facility and appurtenant buildings upon the adjacent area. The visual impact statement and maps shall include:
 - a) Drawings of the proposed structure with horizontal and vertical elevations, as well as showing current or proposed landscaping that would act as a screen (such as trees, berms or buildings).
 - b) A copy of the current Iron County Zoning map showing the location of the structure,
 - c) Both aerial and topographic maps showing the plotted structure and all adjacent land uses, structures and scenic vistas within a radius of 2500 feet of the structure.
 - d) The scale of all maps shall be 1 inch equals 300 feet or finer.

LAND OWNER ACKNOWLEDGEMENT

Written acknowledgement by the landowner of a leased site that he/she/they will abide by all applicable terms and conditions of the building permit including the restoration and site restoration requirements of this ordinance.

ADDITIONAL INFORMATION AND ANALYSIS

- 1) The Town of Sherman may at its discretion require screening and painting plans; alternative site analysis; or facility design alternatives for the proposed facilities.
- 2) The Town of Sherman may employ on its behalf, an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the costs of such review and/or independent analysis.
- 3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

EXISTING TOWER / NEW ANTENNA

Applications for a building permit to add a new antenna to an existing tower or structure shall be exempt from the requirements under heading APPLICATIONS, items 1, 2, and 3 of subsection (b) inclusive.

ALTERNATIVE TOWER STRUCTURE

- 1) If an antenna is installed on an alternative tower structure, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- 2) If equipment is to be installed on an alternative tower structure, applicant shall furnish a report from a professional engineer certifying the proposed alternative tower structure to be suitable for applicants equipment and intended use. Suitable shall be understood to include, but not be limited to, structural integrity and human safety concerns.

This ordinance shall become effective upon its adoption by the Sherman Town Board of Supervisors and publication as required by law.

Appendix A – Insurance Requirements

Workers' Compensation The Applicant must maintain Workers' Compensation insurance in compliance with applicable statutes. The policy shall also provide Employer's Liability coverage with limits of not less than \$500,000 Bodily Injury each accident, \$500,000 Bodily Injury by disease, policy limit, and \$500,000 Bodily Injury by disease, each employee.

General Liability The Applicant must maintain an occurrence form comprehensive general liability (CGL) coverage. Such coverage shall include, but not be limited to, bodily injury, property damage-broad form, and personal injury, for the hazards of Premises/Operation, broad form contractual, independent contractors, and products/completed operations.

The Applicant must maintain CGL coverage with limits of liability not less than 1,000,000 each occurrence; \$1,000,000 personal and advertising injury; \$2,000,000 general aggregate, and \$2,000,000 products and completed operations aggregate. These limits may be satisfied by the CGL coverage or in combination with an umbrella or excess liability policy, provided coverage afforded by the umbrella or excess policy are no less than the underlying CGL.

Automotive Liability The Applicant must carry Automobile Liability coverage. Coverage shall afford total liability limits for Bodily Injury and Property Damage Liability in the amount of \$1,000,000 per accident. The liability Limits may be afforded under the Commercial Policy, or in combination with an Umbrella or Excess Liability Policy provided coverages afforded by the Umbrella Excess Policy are no less than the underlying Commercial Auto Liability coverage.

Coverage shall be provided for Bodily Injury and Property Damage for the ownership, use, maintenance or operation of all owned, non-owned and hired automobiles. The Commercial Automobile Policy shall include at least statutory personal injury protection, uninsured motorists and underinsured motorists coverages.

Property Insurance The Applicant must keep in force during the term and any renewals of the Lease a policy covering damages to its property at the Premises. The amount of coverage shall be sufficient to replace the damaged property, loss of use and comply with any ordinance or law requirements.

Additional Insured-Certificate of Insurance The Applicant shall provide, prior to approval, evidence of the required insurance in the form of a Certificate of Insurance issued by a company (rated B++ or better) by Best, licensed to do business in Wisconsin. Applicant will name Town as an Additional Insured on the General Liability and Commercial Automobile Liability Policies. The Certificate(s) shall also provide the coverage may not be canceled, non-renewed, or materially changed without thirty (30) days prior written notice to Town.