

## **SECTION 15.0 – TELECOMMUNICATIONS TOWERS AND ANTENNAS**

### 15.1 Intent

The purpose of this section is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the Town in regulating local zoning. The goals of this section are to protect land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town shall give due consideration to the zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

### 15.2 Applicability

The requirements of this section shall apply to all communications towers and antennas, except that they shall not apply to towers and antennas owned and operated by federally licensed amateur radio station operators, and shall not apply to antennas operated solely for the purpose of receiving signals.

### 15.3 Definitions

As used in this section, the following terms shall have the meanings set forth herein:

- (1) Alternative Tower Structure: Clock towers, bell steeples, light poles, and similar mounting structures that camouflage or conceal the presence of antennas.
- (2) Antenna: Any exterior transmitting or receiving device and mounting appurtenances mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.
- (3) FAA: Federal Aviation Administration.
- (4) FCC: Federal Communications Commission.
- (5) Tower: Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, and single-pole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and the like. The term

includes the structure and any support thereto.

#### 15.4 Antennas

- (1) No antenna shall be erected or maintained in the Town without a Zoning Permit issued under the provisions of this Chapter.
- (2) No antenna may be placed on a tower or alternative tower structure in the Town except in the following zoning districts:

Agricultural District One (A-1)  
Transitional Agricultural District One (A-1a)  
Agricultural District Two (A-2)  
Agricultural District Three (A-3)  
Local Commercial District (B-1)  
Light Industrial District (M-1)

(Amended by Ordinance 101303B)

- (3) Any accessory building or other supporting equipment associated with an antenna shall not exceed 314 square feet in area except upon issuance of a Conditional Use Permit for additional space by the Planning and Zoning Committee for such purpose.
- (4) If an antenna is installed on an alternative tower structure, the antenna may add no more than 20 feet to the height of such structure except upon issuance of a Conditional Use Permit for additional height by the Planning and Zoning Committee.

#### 15.5 Communication Towers

- (1) Communication towers may be constructed only upon issuance of a Conditional Use Permit by the Planning and Zoning Committee, and may be constructed only in the following zoning districts:

Agricultural District One (A-1)  
Transitional Agricultural District One (A-1a)  
Agricultural District Two (A-2)  
Agricultural District Three (A-3)  
Light Industrial District (M-1)

(Amended by Ordinance 101303B)

- (2) No permit for a new tower shall be issued unless the applicant demonstrates that the telecommunications equipment planned for use on the new tower cannot be accommodated on an existing or approved tower or an alternative tower structure. Reasons why such equipment may not be accommodated on an existing or previously approved tower or an alternative tower structure may include the following:
  - (A) No existing towers or alternative tower structures are located within the

geographic area required to meet the applicant=s engineering requirements.

- (B) Existing towers or alternative tower structures are not of sufficient height to meet the engineering requirements.
  - (C) Existing towers or alternative tower structures do not have the structural capacity to support the applicant=s proposed antenna and related equipment, and the existing tower or alternative tower structure cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
  - (D) The planned equipment would cause interference affecting the usability of the other existing or planned equipment at the tower or the existing antennas would cause interference with the applicant=s proposed antenna, and the interference cannot be prevented at a reasonable cost.
  - (E) No owner of a tower or alternative tower structure is willing to allow the applicant to have access to the tower or alternative tower structure on reasonable terms.
- (3) Before issuing a Conditional Use Permit the Planning and Zoning Committee may seek a professional opinion on the suitability of utilizing existing structures and, in such event, the applicant shall be required to pay the cost of obtaining such opinion.
- (4) In addition to the other requirements provided in this section for issuance of a Conditional Use Permit, any application for a Conditional Use Permit for a tower shall include the following:
- (A) A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Town to be necessary to assess compliance with this section;
  - (B) The setback distance between the proposed tower and the nearest residential unit, and residentially zoned properties;
  - (C) The separation distance from other towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town, or within one mile of the border thereof, including specific information about the location, height, and design of each tower;
  - (D) Landscape plan showing specific plant materials; and
  - (E) Method of fencing, including location, materials and finished color and, if applicable, vegetative screening.

## 15.6 General Requirements

The following requirements shall apply to all towers and antennas:

- (1) Building Codes and Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is constructed and maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association.
- (2) State or Federal Requirements. All towers and antennas shall meet or exceed applicable standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
- (3) Co-Location. No permit shall be issued for a tower unless it is structurally and electrically designed to accommodate at least two antennas.
- (4) Height Restrictions. The maximum height of a tower shall be 200 feet, including any structures or equipment placed at the top of the tower such as lightning rods.
- (5) Setbacks. A tower shall be located not closer than a distance equal to 100% of height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.
- (6) Design. Proposed or modified towers shall blend in with the surrounding environment except as may be required by rules of the FAA or FCC. Any associated utility building shall also blend in with the character of the district in which it is located.
- (7) Separation Between Towers. Separation distances between towers shall be measured by a straight line between the base of an existing tower and the base of a proposed tower. No tower may be located within 2500 feet of an existing tower.
- (8) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but shall not include weather devices.
- (9) Lighting. Towers shall not be artificially illuminated unless required by the FAA or any other government authority. Lighting shall be designed to minimize disturbance to the surrounding area.
- (10) Fencing. A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design,

materials and colors shall reflect the character of the surrounding area.

- (11) Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible.
- (12) Interference. The tower shall be shielded, filtered and grounded in a manner consistent with the FCC and the Electronic Industries Association guidelines so as to minimize the possibility of interference with locally received transmissions. In the event any complaint of interference is received by the Town, and the interference is verified by a qualified engineer to be caused by the tower, the Town shall notify the owner and operator in writing and the owner and operator shall have a period of 30 days to investigate the complaint and respond to the Town. In the event it is determined that the tower is the source of the interference, the owner and operator shall take steps to correct the interference.

#### 15.7 Removal of Abandoned Antennas and Towers

- (1) Abandonment. An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (2) Removal by Town. Failure to remove an abandoned tower or antenna within such 90 day period shall be grounds for the Town to remove the tower or antenna at the owner's expense. The Town may place a lien upon the property on which the tower is located for the costs of removal.

#### 15.8 Permit Fees

- (1) Conditional Use and Zoning Permit Fees

The fees for issuance of zoning permits and conditional use permits for towers, antennas, and accessory buildings under this section may differ from the fees for zoning permits and conditional use permits otherwise issued under this Chapter. Fees may be determined by resolution of the Town Board. Until changed by such resolution, fees shall be as follows:

- (A) Conditional use permit for construction of tower not exceeding 100 feet in height: \$1,250.00.
- (B) Additional conditional use permit fee for construction of a tower for each

foot or portion of a foot by which the tower exceeds 100 feet in height:  
\$5.00.

- (C) Zoning permit fee for tower accessory building up to 1000 square feet in size: \$25.00.
- (D) Zoning permit fee for tower accessory building exceeding 1000 square feet: \$30.00.
- (E) Zoning permit fee for each antenna placed on a tower or alternative tower structure: \$250.00.

(2) Inspection Fee

In addition to the fees for permits imposed under this subsection, each holder of a conditional use permit for a tower shall pay an annual inspection fee in an amount to be determined by resolution of the Town Board. Absent a resolution setting a different fee, the annual inspection fee shall be in the amount of \$250.00.

(Amended by Ordinance 40300)

[As of March 6, 2003, the Board has changed this fee to \$50.00 by resolution.]

15.9 Towers as Nonconforming Uses and Structures

- (1) Any tower existing in the Town of Harmony as of the date of creation of this section (April 3, 2000) which for any reason does not meet the standards of this section shall be deemed to hold the status of a lawful nonconforming structure under Section 9 of this Chapter, except as otherwise set forth in this subsection.
- (2) Any tower existing in the Town of Harmony as of the date of creation of this section which is located in a zoning district where it is not a permitted or conditional use shall be deemed to hold the status of a lawful nonconforming use under Section 9 of this Chapter, except as otherwise set forth in this subsection. However, if property on which such an existing tower stands is located in a zoning district where towers may be a conditional use, a conditional use permit shall be deemed to have been issued for use of such property for a tower. The tower located on such property shall nonetheless constitute a nonconforming structure if it fails to meet standards set forth in this section.
- (3) Except as otherwise set forth in this subsection, no tower which constitutes a nonconforming structure may be extended, enlarged, replaced, or moved, provided that addition of antennas shall not, in and of itself, constitute extension or enlargement. Structural alterations not constituting extension, enlargement, replacement, or movement of the tower may be made, subject to the limits set forth in this subsection. Structural alterations shall include any change in the supporting members or foundations of the tower or its anchors which involves more than the replacement of existing parts with parts of the same size and shape. No such tower shall be structurally altered where such alteration will result in the

total cost of such alterations since January 1, 2002, exceeding 50% of the assessed value of the tower, unless the alteration will result in bringing the tower into full compliance with this section, or unless the owner obtains a conditional use permit as set forth in this subsection.

- (4) Before doing any structural alteration on a tower which is a nonconforming structure, the owner of the tower shall apply to the Zoning Officer for a Zoning Permit and shall provide adequate records and proof to show that the proposed alteration will not result in the total structural alterations since January 1, 2002, exceeding 50% of the assessed value of the tower.
- (5) The owner of a tower which is a nonconforming structure may apply to the Planning and Zoning Committee for a conditional use permit, and the Planning and Zoning Committee may, in its discretion, grant a conditional use permit, allowing the owner to:
  - (A) Make structural alterations to the tower exceeding 50% of the assessed value of the tower; or
  - (B) Completely replace the tower with a tower which does not exceed the height of the existing tower; or
  - (C) Expand the area or configuration of the tower, without expanding its height.

Such a conditional use permit shall be issued only if the Planning and Zoning Committee is satisfied that such additional structural alteration, expansion or replacement tower is essential to provide or continue vital services or would otherwise be in the best interests of the community. Any alteration, expansion, or replacement tower to be so approved must be consistent with the goals of maximizing the number of antennas that can be placed on a single tower, minimizing the total number of towers in the town, minimizing negative effects upon nearby residents and property, and assuring the safety of the community. Before granting such a conditional use permit the Committee may seek assistance by obtaining certifications and/or opinions from independent engineers or consultants acting on behalf of the Town, the cost of which shall be paid by the applicant.

- (6) The following shall be permitted on all towers which are nonconforming structures on an unlimited basis, not subject to a 50% of value limitation, and shall not be deemed to be structural alterations:
  - (A) Routine maintenance and repairs such as painting, re-tensioning of guy wires, and replacement of light bulbs.
  - (B) Structural repairs not constituting structural alterations. Structural repairs include, but are not necessarily limited to, the replacement (but not moving or increasing the size) of existing guy wires, anchor bases, brackets, braces,

or framework. Structural repairs do not include replacement of the entire tower except as otherwise set forth herein.

- (C) Changes and modifications which might otherwise constitute structural alterations but which are mandated by local, state, or federal laws and regulations, such as those of the Federal Aviation Administration, the Federal Communications Commission, the Occupational Safety and Health Administration, the Wisconsin Bureau of Aeronautics, and the Wisconsin Department of Commerce, provided that such modifications or changes are not the result of antennas added to the tower since creation of this section.
- (D) Addition of antennas and antenna mounts, but not including structural alterations made necessary because of such additional antennas and mounts.
- (E) Replacement of a tower destroyed by wind, accident, or other Act of God, provided that the replacement tower is configured and designed in the same manner as the tower which it replaces.

The actions described in subparagraphs (C), (D) and (E) above require a Zoning Permit. The actions described in subparagraphs (A) and (B) do not require a Zoning Permit.

- (7) No reconstruction, repair, or alteration which has taken place prior to January 1, 2003, on any tower shall be deemed in violation of this Chapter.

(Amended by Ordinance 30303A)

- (8) Notwithstanding any other provision set forth in this section, the owner of a communications tower which is a legal nonconforming structure under this subsection, and which is supported by guy wires, may apply to the Planning and Zoning Committee for a conditional use permit, and the Planning and Zoning Committee may issue such a conditional use permit, allowing the replacement of the guyed tower with a free standing tower, even though the proposed free standing replacement tower does not meet height and setback limitations set forth in this section, provided that the free standing replacement tower shall not exceed the height of the existing guyed tower or the maximum height permitted under section 15.6(4), whichever is greater. Upon application for such a conditional use permit, the Planning and Zoning Committee may seek a professional opinion as set forth in section 15.5(3). The application for such a conditional use permit shall include the information required in section 15.5(4). Any tower permitted under this paragraph shall continue to be a legal nonconforming structure under this section.

Upon replacement of a legal nonconforming tower with a free standing tower, subsequent structural alteration not constituting extension, enlargement, replacement, or movement of the tower as defined in section 15.9(3) may be made to said tower, not exceeding 50% of assessed value, with the assessed value to be determined after such replacement.

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