

N. **Telecommunication Facilities**

1. **Purpose**

The purpose of this section 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 Watonwan County as set forth within the Watonwan County Zoning Ordinance and Watonwan County Comprehensive Plan, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that Watonwan 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 Telecommunication Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Watonwan 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 Watonwan County citizens.
- (d) Protect environmentally sensitive areas of Watonwan County, including the protection of migratory birds, by regulating the location, design and operation of telecommunications towers, antennas and facilities. The following aspects of this ordinance are promoted based on recommendations contained within U.S. Fish and Wildlife Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers (September 14, 2000): the commitment to exhausting co-location opportunities before allowing new towers, the placement of a maximum height limitation on new towers, the effective prohibition of guyed tower structures, and the prohibition of towers in key habitat areas such as wetlands, shorelands and floodplains.
- (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.

## 2. Definitions

The following definitions shall apply to this chapter unless the context dictates otherwise. All definitions in Section 2 shall apply unless specifically defined in this chapter.

**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.

**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 an 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.

**Antenna Building Mounted:** means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

**Antenna Ground Mounted:** means any antenna with its base placed directly on the ground.

**Camouflaged Tower:** means any telecommunications tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. Camouflaging may be accomplished by a suitable combination of the following examples: lack of lighting, low tower height, non-contrasting colors, screening and landscaping, and others.

**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.

**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.

**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.

**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.

**Lattice Structure:** means a telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

**Monopole Structure:** means a telecommunication tower of a single pole design.

**Operation:** 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.

**Provider:** see Carrier

**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, Television Receiver Only (TVRO) and satellite microwave antennas.

**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 telecommunication signals, excluding facilities exempted under Section 3.

**Telecommunication Facility Structure:** means a telecommunication tower or alternative support structure on which telecommunications antenna(s) may be mounted.

**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 Section 3.

**Utility Pole Mounted Antenna:** Means an antenna attached to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, or other approved similar structure.

### 3. Exemptions

- (a) Exempt from review under this chapter will be: television antennas, satellite dishes (one) 1 meter (or 39 inches) in diameter or less, satellite dishes used commercially and (three) 3 meters in diameter or less, receive only antennas, amateur radio facilities, and mobile services providing public information coverage or news events or of a temporary or emergency nature.
- (b) Exempt from the conditional use permit requirements of this section will be satellite dishes more than 1 meter in diameter, ground mounted antennas not exceeding 100 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 and antennas co-located on an existing telecommunications facility structure. These structures shall be authorized with a land use permit.
- (c) Exempt structures under this chapter are subject to all other applicable provisions of the zoning code and Airport Height Ordinance.

### 4. Areas Where Telecommunications Facilities May be Allowed or Prohibited

- (a) Telecommunications facilities may be allowed as a conditional use in the following zoning districts, subject to public hearing, review and approval by the County Planning Commission:
  - (1) Agriculture
  - (2) Commercial
  - (3) Industrial
- (b) Telecommunication facilities, except exempt facilities, shall not be allowed in the following areas due to potential harm to the environment.
  - (1) Shoreland
  - (2) Floodplains
- (c) Telecommunication facilities, except exempt facilities, **shall not be allowed** in the following areas due to potential conflict with other uses of the land:

- (1) Historic sites and districts listed on the National Register of Historic places.
- (2) Habitat areas of threatened or endangered species.
- (3) Areas designated for planned residential use in the Watonwan County Comprehensive Plan.
- (4) Zoning Districts:
  - (a) Residential
  - (b) Residential/Recreational

5. **Conditional Use Permit Required**

- (a) A conditional use permit is required for all telecommunication facilities, except exempt facilities. Section 12N (7) shall apply to all telecommunication facilities.
- (b) The Zoning Administrator shall review a conditional use permit application for compliance with the provisions of this section, and the County Planning Commission shall review and act to reach a recommendation to either approve or deny the Conditional Use Permit to the County Board.
- (c) In addition to the information required by Section 12N (7), the application shall include the following:
  - (1) A legal description of the facility site.
  - (2) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
  - (3) An original signature of the applicant, landowner, 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.
  - (4) A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses or institutions.
  - (5) In the case of a leased site, a lease agreement or binding lease memorandum 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.
  - (6) Copies of co-location search letters and responses as defined in Part 6.
  - (7) A tabular and map inventory of all the applicant's existing telecommunications facilities located within Watonwan County and including all of the applicants' existing

telecommunications facilities within 1 mile of the county boundary.

- (8) Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.
- (9) Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- (10) Copies of the determination of no hazard from the Federal Aviation Administration (FAA).
- (11) An alternatives analysis, prepared and signed 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 County Planning Commission. The analysis shall identify all reasonable, technically feasible, alternative locations or facilities which could provide the proposed telecommunications service within 3 miles of the proposed site. The analysis shall include:
  - (a) Propagation maps showing the existing and proposed signal of the carrier or service provider within all of Watonwan County and within at least 5 miles of the county boundary. Propagation maps shall include areas served through roaming agreements with other service providers if applicable.
  - (b) An explanation of the feasibility of co-locating the proposed telecommunication service on all existing facilities within the 3-mile radius.
  - (c) An explanation of the feasibility of locating the proposed telecommunication service on an alternative support structure within the 3-mile radius.
  - (d) An explanation of the rationale for the site that was selected in view of the relative merits of any of the feasible alternatives.
- (12) A report prepared by a structural engineer licensed by the state of Minnesota certifying the structural design of the tower and its ability to accommodate at least three additional antennas.
- (13) Proof of liability coverage. Watonwan County shall be a certificate holder in this policy.
- (14) Proof of financial security for tower removal as defined in Part 8 (b).
- (15) Such other information as the department or the County Planning Commission may reasonably require.

- (d) The Zoning Administrator, with the approval of the County Planning Commission, may employ on behalf of Watonwan County 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 reasonable costs of such review and/or independent analysis, and shall pay the estimated cost of such services before they are rendered. All invoices, fees and charges shall be paid in full before the issuance of a conditional use permit.

6. **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.

- (a) Any applicant requesting permission to install a new telecommunications tower shall provide evidence of written contact with all wireless service providers who supply service within 3 miles of the proposed facility.
- (b) The applicant shall inquire about potential co-location opportunities at all technically feasible locations.
- (c) 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:
  - (1) No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
  - (2) Existing towers or alternative support structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or alternative support structures do not have sufficient strength to support the 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 alternative support structure, or the system on the existing tower or alternative support structure would cause electromagnetic interference with the applicant's proposed system.

- (5) 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 co-location are unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers or alternative support structures unsuitable.
- (d) Telecommunications facility structures permitted under this chapter shall allow other users to lease space on the 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 Minnesota. 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 siting telecommunications facility structure would cause interference with the proposed system, subject to verification by the department.
  - (e) The response of the owner(s)/operator(s) of existing telecommunications facilities to requests for co-location will be considered during the review process established by Part 8. Unreasonable responses to requests for co-location shall be grounds for revocation of a conditional use permit.
  - (f) County and local government agencies shall have the right to reserve space upon any new tower or upon any tower being substantially modified. Reservation of the accommodation upon the structure shall be acquired during the permit approval process through good faith negotiations with the applicant.

7. **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 County Planning Commission that 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 no more than 199 feet above original grade, unless the applicant can demonstrate to the satisfaction of the County Planning



Commission that a great height is necessary to provide coverage meeting the minimum requirements of the Federal Communication Commission (FCC) license(s) and that no feasible alternative exists to provide coverage, such as co-locating on existing telecommunications towers or alternative support structures, constructing a new tower in a different location or constructing multiple towers of a shorter height.

- (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 County Planning Commission if evidence is provided that a special circumstance exists that would prevent the proposed telecommunications facility structure from feasibly supporting additional users and antennas.

## 8. Performance Standards

- (a) **Monitoring and Reporting.** The applicant shall monitor the telecommunications facility to ensure full compliance with Federal Communication Commission (FCC) regulations. A report shall be submitted to the department within one month of activation of the facility. Additional reports shall be submitted as needed in conformance with Section 12N (11) of this Section.
- (b) **Security for Removal.** The applicant or owner of the telecommunications facility shall provide a bond, irrevocable letter of credit or other suitable financial guarantee as determined by the County Planning Commission to ensure the removal of the facility has been discontinued as defined by Part 10 of this Section. The amount of financial guarantee shall be no less than \$30,000. Watonwan County shall be a certificate holder in the financial guarantee.
- (c) **Security.** All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from the 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 a telecommunications facility site.

- (e) **Screening and Landscaping.** All telecommunications facilities, except exempt facilities, shall be designed to blend in to the surrounding environment and to hide views of the facility from adjoining properties and public roads to the greatest extent feasible.
  - (1) Existing mature vegetation and natural landforms shall be preserved to the greatest extent possible.
  - (2) In locations where existing mature vegetation and landforms will not adequately screen the views of the facility, the site shall be landscaped and maintained with a buffer of plant materials.
    - (a) The landscaped buffer shall consist of evergreen trees planted such that the primary structure and all accessory structures will be completely screened from view at ground level.
    - (b) Trees planted must be at least 4 feet in height at the time of planting.
    - (c) Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping and screening.
- (f) **Lighting.** No lighting of the principal telecommunications facility structure shall be allowed unless required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC). If required, lighting shall be installed only when no other options are available.
  - (1) Red lights shall be preferred to white lights on the primary telecommunications facility structure or tower.
  - (2) High visibility paint shall be preferred to daytime lighting of any kind on the primary telecommunications facility structure or tower.
  - (3) Lighting of accessory structures and the facility site may be permitted by the County Planning Commission if it is of low intensity, directed inward and downward and is limited to within the facility site boundary.
- (g) **Access.** Access shall be provided by an all-weather gravel or paved driveway.
- (h) **Setbacks.** The following minimum setback distances shall apply:

- (1) No telecommunications facility structures shall be located within 500 feet of any residence.
  - (2) No telecommunications tower shall be located less than (one-quarter) 1.25 times the approved height of the tower from any property boundary.
  - (3) Setbacks required for telecommunications towers shall be measured from the center of the tower structure.
- (i) **Lot Size.** When a new lot is created for the purpose of locating a telecommunications facility, the minimum lot size for that zoning district shall apply.
  - (j) **Facility Construction.** All telecommunications facilities approved with a conditional use permit shall be completely constructed and in operation within 1 year of the date of approval. An extension of time, not to exceed 6 months, may be granted by the Zoning Administrator due to inclement weather or other extenuating circumstances. There is no additional fee for an extension.

**9. 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 only if these alterations do not increase the nonconformity of the existing facility, and only after submitting an information report similar to those required by Part 11 (c) of this Section. Alterations not listed in this section or listed as exempt under Part 3 (b) shall be prohibited unless the facility is brought into conformance with the provisions of this Section including the issuance of a Conditional Use Permit.

**10. Removal of Abandoned Telecommunication Facilities**

It is the express policy of Watonwan County that telecommunication facilities be removed and their sites restored to their pre-construction state once they are no longer in use and not a functional part of providing telecommunications service.

- (a) Removal and restoration of such facilities is the responsibility of the owner of the facility.
- (b) The telecommunications facility(s) shall be removed when use of the facility(s) has been discontinued or the facility had 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.

- (c) This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility.
- (d) Nothing in this section prevents the removal of the facility prior to expiration of the 12-month period.

## **11. Review Fee and Reporting Requirements**

Beginning January 1, 2004, in order to insure compliance with the provisions of this chapter, the following reports and fees must be submitted to the department by the owner(s)/operator(s) of all existing telecommunications facilities under the jurisdiction of this Section.

- (a) By January 1, 2004, all towers and facilities capable of co-locating additional antennas shall:
  - (1) Provide the following information:
    - (a) A legal description of the facility site
    - (b) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
    - (c) The identity, phone number and address of the facility owner, the landowner, all service providers making use of the facility, lessees and holders of easements.
    - (d) A description of the telecommunications services that the service providers broadcast from the facility.
    - (e) A propagation map(s) prepared by a radio frequency engineer (s) showing the current signal broadcast of all service providers that broadcast from the facility.
    - (f) A report prepared by a structural engineer certifying the actual capacity for co-location on the existing facility.
  - (2) Pay the review fee as prescribed in the Fee Schedule.
  - (3) Pay an additional review fee every 5 years thereafter as prescribed in the Fee Schedule.
- (b) By January 1, 2004, all towers and facilities not capable of co-locating additional antennas shall:
  - (1) Provide the following information:
    - (a) A legal description of the facility site.
    - (b) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.

- (c) The identity, phone number, and address of the facility owner, the landowner, all service providers making use of the facility, lessees and holders of easements.
- (d) A description of the telecommunications services that the service providers broadcast from the facility.
- (e) A propagation map(s) prepared by a radio frequency engineer(s) showing the current signal broadcast of all service providers that broadcast from the facility.
- (f) A report prepared by a structural engineer certifying the lack of capacity for co-location on the existing facility.

(c) A written report shall be submitted to the department within 10 working days of any of the following events:

- (1) A change in any of the items listed under Section 12N (5) (c).
- (2) Cessation of the broadcast of a telecommunications signal (for the purpose of monitoring when a facility has been abandoned as defined by Section 12N (10) (b).
- (3) Reestablishment of a telecommunications signal for which a report of cessation of broadcast had previously been required.
- (4) The completion of any new aeronautical or environmental study regarding the facility site.

## **12. Compliance and Revocation**

All telecommunications facilities under the jurisdiction of this chapter will be reviewed for compliance every two years. Review fees collected shall be used to fund the review of the requirements of this Section. Failure to comply with the requirements of this chapter shall be subject to Section 22 of the Watonwan County Zoning Ordinance. A daily forfeiture shall result until compliance is achieved.

## **13. Fees**

Permit and review fees for telecommunications facilities shall be set by the County Commissioners and become part of the department fee schedule.