

TOWN OF PERRY
COMMUNICATION TOWERS SITING ORDINANCE

The Town Board of Supervisors of the Town of Perry, Dane County, Wisconsin, do ordain as follows:

- 1) **Findings and Purposes.** The construction and operation of Communication Towers raises unique land use and aesthetic considerations. The growth of the personal wireless services industry has generated, and will continue to generate, numerous requests for the siting, construction and operation of Communication Towers in Dane County and in the Town of Perry, requiring the Town to review and take action on requests for changes to zoning district boundaries and conditional use permits. The purposes of this ordinance are as follows:
 - a) To ensure that the Town will receive adequate information to properly evaluate applications for changes to zoning district boundaries and conditional use permits requested to allow the construction and operation of Communication Towers;
 - b) To create a process that will facilitate the orderly and efficient evaluation of and action on applications for changes to zoning district boundaries and conditional use permits requested to allow the construction and operation of Communication Towers, and that will off-set the cost of processing and evaluating such applications to comply with the Town's Land Use Plan;
 - c) To accommodate the provision of personal wireless services, while protecting the public health, safety and general welfare;
 - d) To facilitate an appropriate pattern of Communication Tower sitings, and to encourage practices that reduce the proliferation, adverse aesthetic impacts, and other potential negative impacts associated with Communication Towers, through careful siting and design standards;
 - e) To preserve the Town's agricultural land uses;

- 2) **Authority.** This ordinance is enacted pursuant to the Town's' authority under **sec. 59.69(5)(e)**, Wis. Stats., **sec. 10.255** of the Dane County Code of Ordinances, and **sec. 60.1((2)(c))**, Wis. Stats.

- 3) **Definitions**
 - a) "*Communication Tower*" means any structure, whether free-standing or attached to an existing building or structure, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.
 - b) "*Search ring*" is that land area with optimal location and elevation for an antenna facility that a qualified engineer has determined is needed for the provision of wireless communication services.
 - c) "*Fall-down radius*" is the distance that a qualified engineer has determined in the tower design that is needed in the event the tower was to collapse.

- 4) **Application and Fees.** Before the Town of Perry will evaluate a proposed change to a zoning district boundary or conditional use permit, the Town's Permit Application form must be submitted to the Town Clerk with the appropriate fee.

5) Changes to Zoning District Boundaries.

- a) *Standards.* The Town shall consider the following standards and factors in determining whether to approve or disapprove a proposed change to zoning district boundaries to allow construction of a Communication Tower:
 - i) Whether the proposed change in zoning is consistent with the Town of Perry Land Use Plan;
 - ii) Whether the proposed Communication Tower is needed at the proposed site for the provision of wireless communication services;
 - iii) Whether a preferred site is available for antenna structures. The Town's preferred sites are as follows:
 - (1) Town lands where new communication towers will not interfere with activities or aesthetics on the site;
 - (2) Existing structures;
 - (3) Private lands where communication towers will not interfere with activities or aesthetics on the site;
 - (4) New communication towers in residential areas only if such towers are uniquely designed to blend into the uses on the site and to be compatible with the surrounding area. Examples of such unique towers would include steeples or bell towers for churches, light poles, or similar camouflaging techniques;
 - iv) Whether the proposed structure would endanger the health and safety of people and animals, including, but not limited to, the likelihood of the failure or collapse of such structure, or the potential of falling ice;
 - v) Whether the existence or operation of the proposed Communication Tower would cause objectionable noise, glare, physical activity or effects that will impair the peaceful enjoyment of neighboring properties;
 - vi) Whether sight lines from all existing homes and roadways would be adversely affected by the Communication Tower;
 - vii) Zoning district changes will not be approved if construction and operation of the Communication Tower would require filling of wetland areas;
 - viii) Such other factors as the Land Use Committee or Board deem relevant to the application.
- b) *Conditions.* Approval of a change in a zoning district boundary to allow construction and operation of a Communication Tower shall be subject to the following conditions, which shall be implemented through recorded covenants and restrictions and other agreements satisfactory to the Town:
 - i) No graphic message or advertising may be permitted on Communication Towers. This would not prohibit the use of warning or equipment information signs;
 - ii) Fencing and locks must be provided to secure the site. No barbed wire or razor wire fencing is permitted;
 - iii) Vegetative buffering may be required to separate the facility and accessory buildings from adjacent land uses;
 - iv) The Communication Tower shall be light blue or gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage is encouraged;
 - v) Communication Towers and their antennas shall not be lighted except as required by the

- vi) Federal Aviation Administration or other lawful authority;
- vii) Towers shall be set back from all residential and commercial buildings and public roadways by a minimum distance of the design fall-down radius of the tower, including all antennas and attachments. Barns and other livestock shelters are included in this setback requirement;
- viii) If a new equipment building is necessary, it shall be situated in the rear yard of the principal use and shall be screened with landscaping or other appropriate screening materials;
- ix) “No Trespassing” signs shall be posted on any security fencing;
- x) Such other site design requirements and conditions as the Town determines appropriate to minimize adverse impacts;
- xi) If an antenna is being integrated with an existing structure, reduced requirements for items (i.) through (vii.), will be considered;
- xii) The owner of any Communication Tower shall provide performance bonds, or demonstrate financial responsibility to the Town’s satisfaction, to ensure compliance with all applicable requirements for removal of Communication Towers and equipment, if not required by Dane County as a condition of the county permit.

6) Conditional Use Permits.

- a) *Standards.* The Town shall apply the following standards in evaluating applications for conditional use permits and advising Dane County of the Town’s recommendation regarding approval, conditional approval or disapproval of the proposed conditional use:
 - i) Whether the establishment, maintenance or operation of the Communication Tower will be detrimental to or endanger the public health, safety, comfort or general welfare, including more specifically the following:
 - (1) Whether the proposed Communication Tower is needed at the proposed site for the provision of wireless communication services;
 - (2) Whether a preferred site is available for antenna structures. The Town’s preferred sites are as follows:
 - (a) Town lands where new Communication Towers will not interfere with activities or aesthetics on the site;
 - (b) Existing structures;
 - (c) Private lands where Communication Towers will not interfere with activities or aesthetics on the site;
 - (d) New Communication Towers in residential areas only if such towers are uniquely designed to blend into the uses on the site and to be compatible with the surrounding area. Examples of such unique towers would include steeples or bell towers for churches, light poles, or similar camouflaging techniques;
 - ii) Whether the uses, values and enjoyment of other property in the neighborhood for purposes already permitted would in any foreseeable manner be substantially impaired or

diminished by the establishment, maintenance or operation of the Communication Tower, including more specifically:

- (1) Whether the proposed structure would endanger the health and safety of people and animals, including, but not limited to, the likelihood of the failure or collapse of such structure, or the potential of falling ice;
 - (2) Whether the existence or operation of the proposed Communication Tower would cause objectionable noise, glare, physical activity or effects that will impair the peaceful enjoyment of neighboring properties;
 - (3) Whether sight lines from existing homes and roadways would be adversely affected by the Communication Tower;
- iii) Whether the establishment of the conditional use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- iv) Whether adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- v) Whether adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion on Town roads;
- b) *Conditions.* A recommendation of approval of a conditional use permit for the construction and operation of a Communication Tower shall be subject to the following conditions, which shall be implemented through recorded covenants and restrictions and other agreements satisfactory to the Town:
- i) No graphic message or advertising may be permitted on Communication Towers. This would not prohibit the use of warning or equipment information signs;
 - ii) Fencing and locks must be provided to secure the site. No barbed wire or razor wire fencing is permitted;
 - iii) Vegetative buffering may be required to separate the facility and accessory buildings from adjacent land uses;
 - iv) The Communication Tower shall be light blue or gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage is encouraged;
 - v) Communication Towers and their antennas shall not be lighted except as required by the Federal Aviation Administration or other lawful authority;
 - vi) Towers shall be set back from all residential and commercial buildings and public roadways by a minimum distance of the design fall-down radius of the tower, including all antennas and attachments. Barns and other livestock shelters are included in this setback requirement;
 - vii) If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened with landscaping or other appropriate screening materials;
 - viii) "No Trespassing" signs shall be posted on any security fencing;
 - ix) Such other site design requirements and conditions as the Town determines appropriate to minimize adverse impacts;
 - x) If an antenna is being integrated with an existing structure, reduced requirements for items (i.) through (viii.), will be considered;
 - xi) The owner of any Communication Tower shall provide performance bonds, or

demonstrate financial responsibility to the Town's satisfaction, to ensure compliance with all applicable requirements removal of Communication Towers and equipment, if not required by Dane County as a condition of the county permit.

- 9) **Severability.** Any provision of this ordinance adjudged to be invalid or unlawful **shall not affect the** validity of the other provisions hereof.
- 10) **Effective Date.** This ordinance shall be effective upon passage and posting/publication pursuant to law.
The foregoing ordinance was duly amended by the Town Board of Supervisors of the Town of Perry at a meeting held on October 15, 2008.

Adopted this 15th day of October 15, 2008.

Signed Ordinance on File