



DOOR COUNTY

TELECOMMUNICATIONS

TOWER ORDINANCE

- September 2007 -

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DOOR COUNTY, WISCONSIN

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(Effective Date: September 3, 2007)

DOOR COUNTY TELECOMMUNICATIONS TOWER ORDINANCE

CHAPTER 1

TITLE; AUTHORITY; AND GENERAL PROVISIONS

The County Board of Door County, Wisconsin does ordain as follows:

- 1.01 Title.** This Ordinance shall be known as the “Door County Telecommunications Tower Ordinance”, hereinafter referred to as “this Ordinance.”
- 1.02 Authority.** This Ordinance is adopted pursuant to the authority granted by the United States Congress, Federal Telecommunications Act of 1996.
- 1.03 Applicability.** This Ordinance shall be in effect in the unincorporated areas of Door County.
- 1.04 Exemptions.** The following are exempt from this Ordinance:
- (1) Structures for the support of television antennas and other receive-only antennas. The antenna use shall constitute ancillary or secondary use, not primary use, of the property.
 - (2) Structures for the support of amateur radio antennas that are owned and/or operated by a federally licensed amateur radio operator, provided that the antenna use constitutes ancillary or secondary use, not primary use, of the property.
 - (3) Structures for the support of mobile antennas for services providing public information coverage of news events or of a temporary or emergency nature.
 - (4) Telecommunications towers mounted on the ground that do not exceed 75 feet in height.
 - (5) Telecommunications towers mounted on buildings that do not exceed 25 feet above the highest part of the building to which they are attached.
 - (6) Public safety towers owned and operated by federal, state, county, or other local municipal governments.
- 1.05 Purpose.** The purpose of this Ordinance is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of Door County while not unduly restricting the development of needed telecommunications service. It is intended that Door County shall apply these regulations to accomplish the following:
- (1) Provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers and related facilities.
 - (2) Minimize adverse visual effects of telecommunications towers through siting standards.

- (3) Protect environmentally sensitive areas of Door County by regulating the location of telecommunications towers. Included under this consideration is the protection of migratory birds.
- (4) Require collocation of new antennas on existing telecommunications towers when feasible.
- (5) Encourage the use of alternative support structures.
- (6) Require construction of telecommunications towers with the ability to locate 4 or more providers.

- 1.06 Compliance.** No telecommunications tower shall be installed except in full compliance with this Ordinance.
- 1.07 Abrogation.** It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing ordinance.
- 1.08 Severability.** If a court of competent jurisdiction adjudges any section, paragraph, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.
- 1.09 Warning and disclaimer of liability.** This Ordinance shall not create a duty or liability on the part of or a cause of action against Door County, its officers or employees thereof, for any damages that may result from administration of or reliance on this Ordinance.
- 1.10 Effective date.** Upon enactment by the County Board of Door County, Wisconsin, this Ordinance shall be effective upon the date of publication.

CHAPTER 2

DEFINITIONS

In this Ordinance, the following words and phrases shall have the meaning ascribed to them in this chapter:

Alternative Support Structure: Clock towers, steeples, silos, light poles, water towers, electric transmission towers, wind turbine towers, buildings, or other structures that may support antennas.

Antenna: 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 a structure. Antennas shall include devices having active or passive 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.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Camouflaged Tower: Any telecommunications tower that due to design or appearance entirely hides, obscures, or conceals the presence of the tower and antennas.

Door County Zoning Ordinance: Door County Ordinance #2-95 or as amended.

Guyed Tower: 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 (of the Telecommunications Tower): The distance measured from the original grade at the base of the tower to the highest point of the tower, including appurtenances, such as attached antennas, protection devices (e.g. lightning rods), and lights.

Lattice Tower: A telecommunications tower that consists of vertical and horizontal supports and crossed metal braces.

Monopole: A telecommunications tower of a single pole design.

Navigable Water: Lake Michigan, Green Bay, all natural inland lakes, all streams, ponds, sloughs, flowages and other waters within Door County which are navigable under the laws of the State of Wisconsin.

Ordinary High Water Mark: The landwardmost line along the bank of the shore of navigable water up to which the presence and action of surface water is so continuous as to leave a distinct mark on the bank. Such distinct mark may be the result of erosion, cobble deposition, water staining, destruction of terrestrial vegetation, total or virtual absence of terrestrial vegetation, and/or other easily recognized characteristics.

Provider: Any company that builds and operates telecommunications facilities and services, whether or not licensed by the Federal Communications Commission.

Resource Planning Committee: A committee created by the Door County Board of Supervisors as authorized by s. 59.69, Wis. Stats.

Telecommunications Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guyed towers, or monopole towers.

Telecommunications Tower Support Facility: Equipment buildings, utilities, and equipment enclosures.

CHAPTER 3

AREAS WHERE TELECOMMUNICATIONS TOWERS ARE ALLOWED AND PROHIBITED

3.01 Areas where telecommunications towers are allowed. Except as provided in ss. 3.02(2), (3), and (4), telecommunications towers shall be allowed only in the Prime Agricultural, General Agricultural, Chambers Island Woodland, Countryside, Countryside-5, Heartland-3.5, Heartland-5, Heartland-10, Estate, Rural Residential, Commercial Center, Mixed Use Commercial, Recreational Commercial, Village Commercial, General Commercial, and Light Industrial zoning districts, as referenced in the Door County Zoning Ordinance.

3.02 Areas where telecommunications towers are prohibited. No telecommunications towers, except those exempted under s. 1.04, shall be permitted in the following areas:

- (1) The Wetland, Natural Area, Conservation Area, Exclusive Agricultural, Chambers Island Shoreline, Small Estate Residential, High Density Residential, Neighborhood Residential, Single Family Residential-20,000, and Single Family Residential-30,000 zoning districts, as referenced in the Door County Zoning Ordinance.
- (2) Floodplains as referenced in the Door County Floodplain Zoning Ordinance (Chapter 15.02, Door County Code) or as amended.
- (3) Historic sites and districts listed on the National Register of Historic Places.
- (4) For telecommunications towers not exceeding 200 feet in height, those areas within 1000 feet of the ordinary high water mark of Lake Michigan and Green Bay. For telecommunications towers exceeding 200 feet in height, those areas within 2 miles of the ordinary high water mark of Lake Michigan and Green Bay.
- (5) Areas within 300 feet of the ordinary high water mark of navigable streams and inland lakes of Door County.

CHAPTER 4

TELECOMMUNICATIONS TOWER PERMIT PROCEDURE

4.01 Permit requirement. No telecommunications tower shall be constructed or installed without a telecommunications tower permit as required under this Ordinance. Provided all requirements of this Ordinance are met, telecommunications tower permits shall be issued to the owner of the property on which the tower is located.

4.02 Telecommunications tower permit application. The applicable property owner shall submit an application for a telecommunications tower permit to the Door County Planning Department. The application shall be on forms provided by the Planning Department and shall include the following information:

- (1) The name, address, telephone number, and original signature of the property owner.
- (2) A site plan, drawn at a scale that produces a clearly legible drawing, showing:
 - (a) Scale and north arrow.
 - (b) Written legal description of the parcel.
 - (c) The parcel boundaries, including the length and bearings of the boundaries, and the tax parcel number.
 - (d) Telecommunications tower location.
 - (e) Telecommunications tower support facilities location.
 - (f) Location of telecommunications tower support facilities in relation to all property lines or leased parcel boundaries and edge of all public rights-of-way.

- (g) Access points.
 - (h) Location of all buildings within a distance at least equal to the height of the proposed telecommunications tower plus 100 feet from the center of the proposed telecommunications tower.
 - (i) Scale drawings of 2 elevation views of all proposed telecommunications tower support facilities.
- (3) A lease agreement, in the case of a leased site. Additionally, the lease agreement shall show that the tower owner may enter into agreement with competing providers for antenna space on the tower.
 - (4) An alternative analysis that identifies all feasible alternative locations and alternative support structures that could provide the proposed telecommunications service. The purpose of the alternative analysis is to seek alternative solutions in order to minimize the number of telecommunications towers by using existing telecommunications towers and alternative support structures, if feasible, to provide the needed services to Door County. The analysis shall address the potential for collocation of antennas. It shall explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. It shall also explain the rationale for not utilizing collocation opportunities.
 - (5) A report prepared by an Engineer licensed by the State of Wisconsin certifying to the adequacy of the structural strength of the tower and its ability to accommodate additional antennas.
 - (6) An affidavit that commits the applicant to making available space on the proposed tower for at least 4 providers, even for those providers providing competing services.
 - (7) A waiver as specified in s. 5.07(1), if applicable.

4.03 Telecommunications tower permit application fee. A non-refundable fee of \$500 shall accompany an application for a telecommunications tower permit.

4.04 Technical review. After determining that all application materials have been satisfactorily submitted, the Door County Planning Department shall employ an independent technical expert to review the submitted materials. The review shall give particular emphasis on determining the thoroughness and adequacy of the alternative analysis specified in s. 4.02(5). The applicant shall pay all the costs of such review. Payment to the Door County Planning Department shall be due upon receipt of the invoice. All invoices, fees, and charges accumulated for the technical review must be paid in full prior to the Zoning Administrator's or the Resource Planning Committee's determination regarding issuance or denial of a telecommunications tower permit.

4.05 Permit grant for telecommunications towers not exceeding 200 feet in height. The Zoning Administrator shall grant preliminary approval of a telecommunications tower permit if the Zoning Administrator determines:

- (1) That a need for a new telecommunications tower has been demonstrated. Supporting evidence of need for a new telecommunications tower shall consist of any of the following situations:

- (a) That no existing suitable telecommunications towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
- (b) That the applicant's proposed system would cause electromagnetic interference with the system on an existing telecommunications tower or alternative support structure, or that an existing system would cause electromagnetic interference with the applicant's proposed system.
- (c) That the fees, cost, or contractual provisions required by the applicant to share an existing telecommunications tower or to use an alternative support structure or to adapt an existing tower or alternative support structure for sharing are unreasonable. Costs are considered unreasonable if they do not conform to contractual terms standard in the industry within the northeastern Wisconsin area or if they exceed the cost of new telecommunications tower development.
- (d) That the applicant demonstrates that existing telecommunications towers or alternative support structures are unsuitable because of other limiting factors.

(2) That the requirements of Chapter 5 are met.

4.06 Permit grant for telecommunications towers exceeding 200 feet in height. The Resource Planning Committee shall determine the granting or denial of telecommunications tower permits for such towers.

- (1) Before determination, the Resource Planning Committee shall conduct a public hearing. Notice of such public hearing shall be given by publishing in Door County a Class 2 notice in accordance with Ch. 985, Wis. Stats. The notice shall specify the time and place of such hearing.
- (2) The Resource Planning Committee shall direct the Zoning Administrator to grant preliminary approval of a telecommunications tower permit if the Resource Planning Committee determines:
 - (a) That a need for a new telecommunications tower has been demonstrated. Supporting evidence of need for a new telecommunications tower shall consist of any of the following situations:
 1. That no existing suitable telecommunications towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
 2. That the applicant's proposed system would cause electromagnetic interference with the system on an existing telecommunications tower or alternative support structure, or that an existing system would cause electromagnetic interference with the applicant's proposed system.
 3. That the fees, cost, or contractual provisions required by the applicant to share an existing telecommunications tower or to use an alternative support structure or to adapt an existing tower or alternative support structure for sharing are unreasonable. Costs are considered unreasonable if they do not conform to contractual terms standard in the industry within the northeastern

Wisconsin area or if they exceed the cost of new telecommunications tower development.

4. That the applicant demonstrates that existing telecommunications towers or alternative support structures are unsuitable because of other limiting factors.

(b) That the requirements of Chapter 5 are met.

(3) The Resource Planning Committee may attach to the telecommunications tower permit such conditions as necessary to further the purpose of this Ordinance.

4.07 Submittals required following preliminary approval. The applicant shall submit the following before a telecommunications tower permit will be issued:

(1) A copy of a determination of no hazard to air navigation from the Federal Aviation Administration.

(2) A statement of nonobjection from the Wisconsin Bureau of Aeronautics

(3) Proof of a performance bond as security for removal, as specified in Chapter 8.

4.08 Telecommunications tower permit expiration. Telecommunications tower permits shall expire one year after issuance if the telecommunications tower for which the permit was issued is not constructed and actively energized and operating. Failure to complete construction before permit expiration shall require submittal of a new application for a telecommunications tower permit or removal of the telecommunications tower as specified in Chapter 8.

4.09 Permit for telecommunications tower support facilities.

(1) If the application for a telecommunications tower permit includes provisions for telecommunications tower support facilities, the telecommunications tower permit shall also extend to the associated telecommunications tower support facilities, provided they comply with all applicable provisions of this Ordinance.

(2) If telecommunications tower support facilities are proposed subsequent to construction of the associated telecommunications tower, a permit shall be required for the proposed telecommunications tower support facilities. An application for such permit shall include all applicable information as shown in s. 4.02. No application fee shall be required. A permit shall be issued for the associated telecommunications tower support facilities, provided they comply with all applicable provisions of this Ordinance.

CHAPTER 5

TELECOMMUNICATIONS TOWER AND TELECOMMUNICATIONS TOWER SUPPORT FACILITY REQUIREMENTS

5.01 Tower requirements.

(1) Telecommunications towers shall be constructed out of nonflammable material and shall be nonreflective gray in color, unless other colors are required by the Federal Aviation Administration, Wisconsin Bureau of Aeronautics, or other applicable

regulatory authority. Gray galvanized metal shall be considered as nonreflective gray in color.

- (2) Telecommunications towers shall not interfere with or obstruct existing or proposed public safety, fire protection, or Supervisory Controlled Automated Data Acquisition (SCADA) telecommunications systems. The applicant, at the applicant's expense, shall correct any actual interference and/or obstruction.

5.02 Lighting of telecommunications towers. Telecommunications towers shall not be artificially lit unless required by the Federal Aviation Administration, Wisconsin Bureau of Aeronautics, or other applicable regulatory authority. If artificial lighting is required, such lighting shall not include white flashing lights during nighttime.

5.03 Telecommunications tower support facilities.

- (1) Telecommunications tower support facilities shall be constructed out of nonreflective materials (visible exterior surfaces only).
- (2) Telecommunications tower support facilities shall not exceed 15 feet in height, measured from the original grade at the base of the facility to the top of the structure.
- (3) Lighting, if any, of telecommunications tower support facilities shall utilize lighting fixtures whose hood, lens, or combination thereof allow no direct beams of light from the fixture to be seen from off the property or to be cast skyward.
- (4) Location. Telecommunications tower support facilities shall be located:
 1. Within 50 feet of the associated telecommunications tower, measured from the center of the telecommunications tower.
 2. A minimum distance of 20 feet from all property lines and from the edge of all public rights-of-way.

5.04 Driveways and access.

- (1) Access to telecommunications tower sites shall be by an all-weather gravel or paved driveway, not more than 15 feet wide, with a turnaround of the minimum size necessary to provide maneuverability for service and emergency vehicles.
- (2) All telecommunications tower sites shall use existing access points and roads whenever possible. Sites that abut 2 or more public roads shall gain access from the lowest class road regardless of driveway length. The road classification hierarchy, in order from highest to lowest, shall be as follows: federal, state, county, town. The applicant shall seek and obtain approval for access from the entity having jurisdiction over the road.

5.05 Security. All telecommunications towers and telecommunications tower support facilities shall be reasonably protected against unauthorized access.

5.06 Noise. Backup generators shall be operated only during power outages and for testing and maintenance purposes.

5.07 Setbacks for Telecommunications Towers and Guy Wire Anchors.

- (1) No telecommunications tower shall be located within a distance at least equal to the height of the telecommunications tower plus 100 feet from a residence that is not on the property on which the tower is located. However, the owner of the residence may waive the requirement for the additional 100 feet. Such waiver shall be evidenced by written documentation submitted with the application for a permit.
- (2) Telecommunications towers shall be located a distance at least equal to the height of the telecommunications tower from:

(a) All property lines. The zoning administrator shall have the authority to reduce the property boundary line setback to not less than fifty (50') feet from the base of the telecommunication tower upon the written request of the applicant and written consent of any person having an interest in any property within the telecommunication tower's fall down radius, which is equal to one hundred and twenty five percent (125%) of the height of the telecommunications tower. Such consent shall be in the form of an easement. The easement shall be recorded with the Door County Register of Deeds before work begins on the tower. The zoning administrator may refuse such a request if clearly articulated public protection and safety concerns warrant such.

(b) The edge of all public rights-of-way.

The measurement shall be taken from the center of the telecommunications tower.

- (3) Guy wire anchor setback. The minimum distance between guy wire anchors and buildings, property lines, and the edge of public rights-of-way shall be 20 feet. Such distance shall be measured from the point where guy wires enter the ground for underground anchors or to exposed parts of above-ground anchors.

5.08 Signs. A sign giving 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 shall be installed adjacent to telecommunications towers and telecommunications tower support facilities. The sign shall be no larger than 6 square feet. No commercial advertising signs shall be located on telecommunications towers or telecommunications tower support facilities.

CHAPTER 6

REPLACEMENT OF DESTROYED TELECOMMUNICATIONS TOWER

Existing telecommunications towers that are destroyed or partially destroyed by fire, explosion, flooding, storm damage, vandalism, terrorism, or similar calamity not caused by the tower or property owner may be replaced with a telecommunications tower of the same type and height. No telecommunications tower permit need be issued for the replacement tower. However, the owner of the property on which the replacement tower is to be erected shall submit to the Zoning Administrator written documentation detailing the type and height of the destroyed tower and the replacement tower.

CHAPTER 7

TRANSFERABILITY

- 7.01 Permits transferable.** All telecommunications tower permits issued under this Ordinance shall be transferable to subsequent owners of applicable property. All subsequent holders of such permits shall be subject to all applicable requirements of this Ordinance and any permit conditions that may exist.
- 7.02 Notice of transfer.** A written notice of property transfer shall be provided to the Zoning Administrator within 30 days of the transfer.

CHAPTER 8

CEASED OPERATION

- 8.01 Restoration requirement.** Any telecommunications tower that is not actively energized and operating for its intended purpose for one year, excluding time spent on repairs or improvements, shall be considered as having ceased operation. Within 6 months of the telecommunications tower permit holder being notified that a telecommunications tower is considered to have ceased operation, the telecommunications tower shall be removed from the property and the property cleaned up as herein required:
- (1) All telecommunications towers and aboveground improvements shall be removed from the property.
 - (2) All items in outdoor storage shall be removed from the property.
 - (3) All building foundations, tower pads, guy wire anchors, and buried electrical improvements shall be removed to a depth of 4 feet below the ground surface. All excavated areas shall be filled in with unconsolidated soil material, of which the top 4 or more inches shall be screened topsoil. The excavated area shall be made level with the ground surface surrounding the excavated area.
 - (4) Any hazardous material, either in containers or spilled upon or in the ground, shall be removed and disposed of in a manner prescribed by applicable state and federal law.
- 8.02 Security for removal.** The telecommunications tower permit holder shall provide to Door County a continuously valid performance bond for each tower in the amount of \$20,000 or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the telecommunications tower will be removed when no longer in operation. Door County will be named as obligee in the bond and must approve the bonding company.

CHAPTER 9

ADMINISTRATION AND APPEAL

- 9.01 Administration.** The Zoning Administrator, a duly authorized appointed position by the Door County Board of Supervisor, and the Resource Planning Committee shall be empowered to administer this Ordinance, issue telecommunications tower permits as appropriate under this Ordinance, and to perform all other duties within the scope of this Ordinance. All duties shall be the responsibility of the Zoning Administrator, except as otherwise specified.

9.02 Appeals. Any person aggrieved by a decision of the Zoning Administrator or Resource Planning Committee in the administration of this Ordinance may appeal the decision to circuit court for review.

CHAPTER 10

ENFORCEMENT

10.01 Violations. It shall be unlawful to construct, install, reconstruct, improve, extend, enlarge, relocate, or convert any telecommunications tower or telecommunications tower support facility in violation of the provisions of this Ordinance. It shall also be unlawful to fail to obtain a telecommunications tower permit.

10.02 Prosecution. The Zoning Administrator may enforce this Ordinance by any lawful enforcement method deemed appropriate and necessary.

10.03 Penalties. Any person, firm, association, corporation, or representative agent who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$500 nor more than \$10,000 for each day of continued violation. Door County shall also be entitled to other relief including a temporary or permanent injunction, costs, and reasonable attorney fees.

10.04 Nonexclusivity. Adoption of this Ordinance does not preclude Door County from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same matter.