

TOWN OF DUNN  
Ordinance No. 12.5

AN ORDINANCE RELATING TO CHANGES TO ZONING DISTRICT  
BOUNDARIES AND CONDITIONAL USE PERMITS REQUESTED TO  
ALLOW THE CONSTRUCTION AND OPERATION OF COMMUNICATION TOWERS

*The Town Board of Supervisors of the Town of Dunn, 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 Dunn, 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;
  - 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 remaining agricultural land uses;
  - f) To avoid potential damage to adjacent properties from the construction and operation of Communication Towers;
  
- 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. 60.10(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) **Pre-Application Conference.** Individuals intending to apply for a change to zoning district boundaries or a conditional use permit are requested and encouraged to meet with the Town of Dunn Plan Commission before formally applying to Dane County for a zoning change or a conditional use permit. Applicants are requested to provide a map showing the applicant's proposed search ring and preliminary plans as to a Communication Tower site. The purpose of the pre-application conference is to discuss the best potential sites within the search ring, and to determine whether preferred locations exist within the search ring, before applicants make formal arrangements with landowners or make formal application for a zoning change or conditional use permit. The Plan Commission would not make final determinations on any issue at the pre-application conference.

5) **Application and Fees.** Before the Town of Dunn will evaluate a proposed change to a zoning district boundary or conditional use permit, the following must be submitted to the Town Clerk:

- a) An application fee of \$500;
- b) The name and address of the applicant and, if different, the owner and operator of the Communication Tower and antennas to be located on the Communication Towers;
- c) The name, address, and phone number of the applicant's primary contact person;
- d) The address and legal description of the proposed Communication Tower location;

- e) A textual and graphic depiction of the Proposed Communication Tower, and a description of the operation or use of the Communication Tower and site;
  - f) A detailed site plan, including all accessory structures and landscaping;
  - g) Written evidence of the applicant's legal interest in the site, such as a lease agreement or option;
  - h) Copies of all documents submitted to Dane County in support of the application;
  - i) All documents maintained by the applicant or the owner of the proposed Communication Tower or antennas relative to health hazards associated with the construction and operation of the Communication Tower or antennas;
  - j) A map showing the location of lands owned by the Town or school district, existing towers, and existing private structures (silos, church steeples, utility towers, etc.) within two miles of the proposed site, and an analysis of why those lands and/or structures cannot be used for the Communication Tower or antenna site;
  - k) The Plan Commission may require that the applicant pay for an independent engineering analysis, if such analysis has not already been required by and made available to the Town by Dane County, addressing the need for a Communication Tower at the proposed site, and such other related matters as requested by the Plan Commission;
  - l) The Plan Commission may require that the applicant provide information regarding the applicant's then current plans for future placement or construction of Communication Towers in the Town.
- 6) **Procedure.** The following procedures shall apply to an application for a change to a zoning district boundary or for a conditional use permit:
- a) The Plan Commission will hold a public hearing on the application, preceded by notice to Town of Dunn residents and the clerk of any town or municipality that reside or exist within two miles of the proposed Communication Tower. The public hearing shall not be held until the Town has received and reviewed the application report from Dane County.
  - b) The Plan Commission will make a recommendation to the Town Board.
  - c) Following receipt of the Plan Commission recommendation, the Town Board will act on the application.

7) **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 Dunn 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) Existing structures;
    - (2) Town or school district lands where new communication towers will not interfere with activities or aesthetics on the site;
    - (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 to allow new Communication Towers in the Hook/Grass Lake, Lower Mud Lake, and Waubesa Wetlands view sheds;
  - viii) Zoning district changes will not be approved if construction and operation of the Communication Tower would require filling of wetland areas;
  - ix) Such other factors as the Plan Commission 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 must be provided 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, 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 for removal of Communication Towers and equipment, if not required by Dane County as a condition of the county permit.

8) **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) Existing structures;
      - (b) Town or school district lands where new Communication Towers will not interfere with activities or aesthetics on the site;
      - (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 all 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 in the public streets;
  - vi) Whether the proposed conditional use conforms to all applicable regulations of the district in which it is located;
  - vii) Whether the proposed conditional use meets all conditions required for issuance of a conditional use permit under sec. 10.194 of the Dane County Code of Ordinances, and any amendments or modifications thereto.
- 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 must be provided 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 adopted by the Town Board of Supervisors of the Town of Dunn at a meeting held on July 17, 2001.*

APPROVED:

  
 Edmond P. Minihan, Town Chair

ATTEST:

  
 Rosalind Gausman, Town Clerk/Treasurer

APPROVED: 7-17-01

POSTED: 7-25-01

PUBLISHED: \_\_\_\_\_