

**AN ORDINANCE
REGULATING WIRELESS COMMUNICATION FACILITIES
IN THE TOWN OF JANESVILLE**

SECTION 1. STATEMENT OF PURPOSE AND INTENT. The purpose of this ordinance is to provide standards and criteria for the placement, construction and maintenance of wireless communication facilities in the Town of Janesville. The intent of this ordinance is to:

- (1) Strike a balance between the interests of the wireless communication service providers, the consumers of those services and the Town of Janesville.
- (2) Restrict the location of towers to nonresidential areas and minimize the total number of towers throughout the Town.
- (3) Protect residential areas and land uses from potential adverse impact of towers and antennas.
- (4) Encourage co-location of new antennas on existing towers.
- (5) Encourage users of towers and antennas to locate them, to the maximum extent possible, in areas where the adverse impact on the township is minimal.
- (6) Encourage users of towers and antennas to configure them in a way that minimizes their adverse visual impact by careful design, siting, landscaping, screening and camouflaging techniques.
- (7) Protect property values and the public health, safety and welfare.
- (8) Avoid potential damage to adjacent properties from tower failure through careful engineering and siting of tower structures.
- (9) Enable wireless communication service providers to provide their services to the township in a prompt, effective and efficient manner.
- (10) Create clear and objective approval criteria.
- (11) Ensure that all wireless communication providers are given an equal opportunity to compete in the local market.

SECTION 2. DEFINITIONS. When used in this Ordinance, the following words and phrases shall have the meanings indicated:

- (1) **ALTERNATIVE TOWER STRUCTURE.** An existing man-made structure which is used as an alternative to a tower and to which an antenna and/or an antenna support structure is attached.
- (2) **ANTENNA.** An outdoor apparatus designed to send or receive wireless communications.

- (3) **ANTENNA SUPPORT STRUCTURE.** A structure which is attached to an alternative tower structure and which is designed to support an antenna at a height sufficient to permit effective receipt or transmission of wireless communications.
- (4) **CO-LOCATION.** The location of the antennas of more than one commercial wireless communication service provider on a single tower or alternative tower structure.
- (5) **EQUIPMENT FACILITY.** A building, cabinet, or other enclosure used to house and protect the electronic equipment necessary for processing wireless communications at a wireless communications facility.
- (6) **FAA.** Federal Aviation Administration.
- (7) **FCC.** Federal Communications Commission.
- (8) **GOVERNING AUTHORITY.** The Town of Janesville.
- (9) **HEIGHT.** The distance from the ground at the base of the tower, or alternative tower structure, to the highest point of the tower or any fixture attached to it, whichever is highest.
- (10) **OPERATOR.** A person, corporation, partnership, association, or other organization which:
 - (a) Provides wireless communication services, either directly or through one or more agents, employees, subsidiaries or affiliates.
 - (b) Controls or is responsible for the management and operation of a wireless communications facility.
- (11) **POINTS OF VISUAL INTEREST.** Views of waterways, open spaces, historic buildings, architecturally significant structures or other scenic views.
- (12) **PREEXISTING TOWERS AND ANTENNAS.** Any tower or antenna for which a building permit or conditional use permit had been properly issued prior to the effective date of this Ordinance.
- (13) **TOWER.** A freestanding, self-supporting structure which rests upon or is embedded into the ground and that is designed and constructed primarily for the purpose of supporting wireless communication antennas. "Tower" does not include structures supported by anchored guy wires.
- (14) **TOWER SITE.** The parcel of land where a tower and associated wireless communication structures, fixtures and equipment are located.
- (15) **WIRELESS COMMUNICATIONS FACILITY.** All of the wireless communication devices located at a single wireless communication site. The term "wireless

communications facility" is synonymous with the terms "telecommunications facility" and "communications facility."

- (16) **WIRELESS COMMUNICATION SERVICE.** The provision of wireless communication services for a consideration. Wireless communication services include, but are not limited to, Cellular Communications Service (CCS), Personal Communication Service (PCS), Specialized Mobile Radio Service (SMR), Enhanced Specialized Mobile Radio (ESMR), paging services and other similar wireless communication services. Wireless communication service does not include wireless over the air broadcasts to the public at large, ham or citizen band radio broadcasts.

SECTION 3. APPLICABILITY OF REGULATIONS.

- (1) **FACILITIES REGULATED BY THIS Ordinance.** Except as provided in subsection (2)(a) of this section, the regulations contained in this Ordinance shall apply to all wireless communication facilities in the Town of Janesville.

- (2) **FACILITIES EXEMPT FROM OTHER PROVISIONS OF THIS Ordinance.**

- (a) List of Exempt Facilities. The following wireless communication facilities are exempt from the provisions of this Ordinance, except the regulations contained in subparagraph (b) of this subsection.

1. A ground or building mounted receive-only radio or television antenna which does not exceed 25 feet in height and which is used solely by the occupants of a dwelling located in a residential zoning district.
2. A ground or building mounted receive only radio or television satellite dish which does not exceed thirty-six inches (36") in diameter; which does not project beyond the roof line and which is used solely by the occupants of a dwelling located in a residential zoning district.
3. A citizens band radio tower and antenna which does not exceed 35 feet in height.
4. A ham radio tower and antenna that does not exceed 75 feet in height.
5. Microwave dishes for private home use.
6. Governmentally owned and operated receive and/or transmit telemetry station antenna for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding 35 feet.

7. Towers and antennas that existed prior to the enactment of this Ordinance, subject however to the requirements of Section 6 herein.

(b) Regulation of Exempt Facilities. Notwithstanding subparagraph (1) of this section, exempt facilities shall be subject to the following rules and regulations:

1. In residential districts:

a. There shall be no more than one antenna support structure per tax parcel, except that more than one antenna support structure may be used by a licensed ham radio operator.

b. Satellite dishes shall not exceed 8 feet in diameter.

2. Exempt towers shall be designed to prevent children and other trespassers from climbing on those structures. Ladder rungs shall be at least 20 feet above the ground immediately below.

3. The tower and antenna shall be constructed and maintained in accordance with the provisions of Section 7 of this Ordinance.

(c) Other Codes Apply. Notwithstanding the provisions of subsection (2)(a) of this section, towers and antennas constructed and maintained in the Town of Janesville shall comply with all other applicable local, state and federal laws.

SECTION 4. PERMITS.

(1) **PERMIT REQUIRED.** No person shall construct, install or alter any wireless communication facility in the Town of Janesville without first obtaining a permit. Wireless communication facilities are conditional uses only in the following zoning districts: A-1, A-2, A-3, B-1, C-1, C-2 and M-1. The provisions of the Zoning Ordinance relating to application for conditional use permits will apply.

(2) No tower shall be installed unless a permit is first obtained by the owner from the Town. The following shall be required as part of the application submittal:

(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 Ordinance;

(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;
 - (e) Method of fencing, including location, materials and finished color and, if applicable, vegetative screening.
- (3) PERMIT FEE. The applicant shall pay a fee to the Town with the application in an amount established by the Town Board.
- (4) CONDITIONS PRECEDENT TO ISSUANCE OF THE PERMIT.
- (a) Compliance with Zoning Regulations. No permit shall be issued for a tower, antenna support structure or equipment facility unless such tower, antenna support structure or equipment facility is permitted by the zoning code or unless a conditional use permit is issued pursuant to that code.
 - (b) Conditional Use Permit. No permit shall be issued for a wireless communication facility for which a conditional use permit is required until such conditional use permit has been issued.
 - (c) General Requirements. No permit shall be issued to the applicant until each of the following has been met:
 - 1. Plans, Specifications and Statements. The applicant for a permit to construct a new tower or equipment facility shall provide the following to the building inspector.
 - a. Wisconsin Professional Engineer stamped Plans and Specifications for construction of the tower. Such plans must specify the minimum height for the chosen location. The tower must be capable of being increased in height to accommodate a subsequent co-locator or co-locators up to an ultimate height to be determined by the Town Board after receiving the recommendation of the Town Planning and Zoning Committee.
 - b. A written statement by an electrical engineer licensed to practice in the State of Wisconsin that the reception and transmission functions of the proposed tower, antenna or equipment facility will not interfere with the usual and customary transmission and reception of radio, television or other services on adjacent properties.
 - c. A copy of the FAA determination, the FCC license and the State of Wisconsin Department of Commerce building plan

approval indicating that the proposed tower, antenna or equipment facility complies with rules administered by those agencies.

- d. For towers, a written statement from the applicant's engineer licensed in the State of Wisconsin indicating:
- (1) The types of antennas that may be accommodated by the tower.
 - (2) The tower's capacity for such antennas; and
 - (3) The failure characteristics of the tower; and
 - (4) The adequacy of its set back in the event of failure.
2. Site and Landscape Plans. The applicant shall provide the building inspector with Site Plans and Landscape Plans drawn to a scale of 1" = 20'. Those plans should specify the location of any tower, building, parking, landscaping, fencing and other accessory uses. The Landscape Plans shall indicate the size, spacing and type of plantings for the proposed site.
3. List of Other Antenna Facilities. The applicant shall provide the Building Inspector with a list of the applicant's existing towers and antennas located within the Town of Janesville or within one mile of the Town limits. The list should identify the location, height and design of each tower and the location of each antenna. The Building Inspector may share such information with other applicants applying for a building permit to construct, install or alter wireless communication facilities.
4. Affidavit Regarding Other Towers. The applicant for a permit to construct a new tower shall execute an affidavit stating whether any other wireless communication tower is located within a radius of 2,000 feet from the location of the proposed new tower.
5. Utilizing Existing Structures. No permits for a new tower shall be issued unless the applicant demonstrates that the telecommunication equipment planned for the new tower cannot be accommodated on an existing or approved tower or structure. In the event the Town determines that it is necessary to consult with a third party in considering the factors listed below, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Such demonstration may include one or more of the following reasons:

- a. Existing towers or structures are not located within the geographic area required to meet the applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet the engineering requirements.
- c. Existing towers or structures do not have the structural capacity to support the applicant's proposed antenna and related equipment and the existing tower or 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. The fees, costs or contractual provisions required by the owner to share an existing tower or structure are cost prohibitive.

6. Co-Location.

- a. Any proposed telecommunication tower and tower site shall be designed, structurally, electrically, and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
- b. The holder of a permit and a conditional use permit for a tower shall allow co-location for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of the tower conditional use permit has made access to such tower and tower site economically unfeasible, then the permit and conditional use permit shall become null and void. Tower conditional use permits will be issued conditional upon a holder thereof reasonably allowing co-location upon the tower.

SECTION 5. OTHER REQUIREMENTS.

(1) HEIGHT.

(a) Towers. No tower shall exceed 150 feet in height. The applicant for a tower must propose the minimum height necessary for the installation proposed. The tower must be of a type that can be expanded vertically by a co-locator to accommodate additional co-location. See Section 4(4)(c)1.a.

(b) Antenna Support Structure.

1. General Rule. Except as provided in subparagraph (2), no antenna support structure, including any antenna or other device attached thereto, shall extend more than 15 feet above the highest point of the building or structure to which the antenna support structure is attached.

2. Exception. An antenna support structure, including any antenna or other device attached thereto, may extend to a height of 70 feet, if the antenna support structure is located on the roof of a commercial, industrial, professional or institutional building and:

a. The building is not altered to accommodate the alternative support structure; and

b. The alternative support structure complies with all applicable local, state and federal laws, rules and regulations.

(2) ADVERTISING SIGNS PROHIBITED. No person shall place any advertising sign on any tower, antenna support structure or antenna. Nor, shall anyone place any flag, decorative sign, streamer, pennant, ribbon, spinner or other moving object on a tower, antenna support structure or antenna.

(3) LIGHTING. No tower, antenna support structure or antenna shall be artificially illuminated, unless such lighting is required by local, state or federal law. This subsection does not prohibit the use of motion detectors and associated lighting nor the use of outdoor lights when the wireless communication provider's personnel are present. This subsection is not intended to prohibit any lighting required by any local, state or federal law, rule or regulation. If lighting is required by such law, rule or regulation, the operator and owner shall choose the lighting which causes the least disturbance to the occupants of adjacent properties.

(4) TRAFFIC. Traffic that is associated with the wireless communication facility shall not adversely affect abutting streets or neighboring properties.

- (5) POINTS OF VISUAL INTEREST. No wireless communication facility shall be located so as to obstruct the view of a point of visual interest from a residence within 300 feet of the wireless communication facility.
- (6) SET BACKS. Wireless communication facilities shall be set back from all lot lines of adjacent residentially zoned properties, occupied structures or public road rights of way as follows:

<u>Zoning District</u>	<u>Set Back Distance</u>
A-1, A-2, R-R, SF-RR, C-2, C-1 and M-1	105% of tower height

- (7) TOWER SEPARATION. No new tower shall be constructed within 2,000 feet of an existing tower. The distance shall be measured in a straight line between the base of the existing tower and the proposed location for the base of the new tower.
- (8) TOWER COLOR. The tower shall have a galvanized steel finish or shall be painted in a neutral color so as to reduce visual obtrusiveness or to camouflage the tower. Antennas and antenna support structures shall be of a neutral color which is identical to, or closely compatible with, the color of the tower or alternative support structure.
- (9) LADDERS. Towers shall be designed to prevent children and trespassers from climbing on these structures. Ladder rungs on towers shall not be placed within 20 feet of the ground.
- (10) FENCING. A wireless communications facility shall be enclosed by a security fence 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 as determined by the Town Clerk.
- (11) LANDSCAPING. A buffer of plant materials to effectively screen the site from public view and from adjacent properties shall be provided.
 - (a) The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the wireless communications facility.
 - (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - (c) Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
 - (d) All landscaping requirements detailed here shall be properly maintained for the life of the conditional use permit or while the tower is in place.

(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 of 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.

(13) **BUILDINGS, ENCLOSURES AND OTHER ASSOCIATED DEVICES.**

(a) Location. All buildings, enclosures, equipment and other associated devices shall be placed in close proximity to the base of the tower located on the wireless communications site. If the wireless communications facility does not have a tower, the buildings, equipment and other associated devices shall be placed in close proximity to the alternative tower structure. If the wireless communication facility has a roof mounted antenna support structure, an equipment enclosure may be located on the roof provided that such enclosure is placed as unobtrusively as possible and in compliance with all applicable building and zoning rules and regulations.

(b) Security. All buildings and equipment enclosures shall be kept located at all times. Each building and enclosure shall have a label attached to it. The label shall give the name, address and telephone number of the person who should be contacted in the event of an emergency.

SECTION 6. ANNUAL LICENSE.

(1) **FACILITIES TO BE LICENSED.** The owner or operator of a wireless communication facility shall obtain an annual license for the operation of each wireless communication facility located in the Town of Janesville.

(2) **APPLICATION FOR LICENSE.**

(a) Form and Contents. The owner or operator of a wireless communication facility shall complete an application for a license on a form prescribed by the Town Board. The application form shall be signed by the owner or operator of the wireless communication facility and by the owner of the property on which that facility is located. The application form shall be submitted to the Town Clerk together with a receipt for payment of the applicable license fee. The applicant shall pay the license fee to the Town Treasurer.

(b) Issuance of a License. Upon receipt of a fully completed application and proof of payment of the license fee, the Town Clerk shall issue a license to the owner or operator of the wireless communication facility.

- (c) License. The license shall be issued annually for the period beginning January 1 and ending December 31. The owner or operator of a new wireless communications facility shall not be required to obtain a license until January 1 of the calendar year immediately following the calendar year in which the wireless communications facility first became operational.
- (d) License Fees:
 - 1. The annual license fee shall be \$125.
 - 2. Appeal. Any person aggrieved by a decision to suspend, revoke or refuse renewal of a license may appeal that decision to the Town Board. The decision of the Town Board may be appealed by Writ of Certiorari to the Circuit Court for Rock County within thirty (30) days of the date of such suspension, revocation or non-removal of a license.

SECTION 7. MAINTENANCE AND OPERATIONAL REQUIREMENTS.

- (1) **GENERAL REQUIREMENTS.** The wireless communication facility shall be maintained in accordance with all applicable local, state and federal regulations. If the building inspector concludes that a tower or any other part of a wireless communication facility fails to comply with such codes and constitutes a danger to persons or property in the vicinity, the building inspector shall notify the owner or operator of the wireless communication facility of such fact. The notice shall be in writing and shall require the owner or operator to bring the facility into compliance with such codes within 30 days of the date of service of the notice. If the owner or operator fails to bring the wireless communication facility into compliance within the time provided, the Town building inspector may order the tower or other wireless communications facility removed to the extent necessary to protect persons or property in the vicinity. The cost of removing the tower or other portion of the wireless communication facility shall be at the owner's expense. The owner and operator shall be responsible to maintain the premises upon which the wireless communication facility is located in a clean and sanitary condition.
- (2) **OUTDOOR STORAGE PROHIBITED.** No person shall store any vehicles, equipment or other goods on the wireless communications facility except in an enclosed building. This section does not apply to overnight storage of vehicles or equipment necessary for the repair of the wireless communication facility.

SECTION 8. ABANDONED TOWERS AND ANTENNAS.

- (1) **EVIDENCE OF ABANDONMENT.** An antenna or tower shall be deemed abandoned if any of the following shall occur:
 - (a) The antenna or tower is not operated for 12 continuous months.

- (b) The owner or operator has failed to renew the annual license by March 1 of the license year.
 - (c) The owner or operator has notified the Town of Janesville that it has ceased operations of the antenna or tower.
- (2) **NOTIFICATION OF ABANDONMENT.** The owner or operator of a wireless communication facility shall notify the Town Clerk whenever an antenna or tower is abandoned or its use discontinued. Such notice shall be given to the Town Clerk within 30 days of such abandonment or discontinuance.
- (3) **REMOVAL OF ABANDONED TOWERS AND ANTENNAS.** The owner and operator of an abandoned tower or antenna shall remove it from the wireless communications facility within 6 months after the tower or antenna is abandoned or its use discontinued. If the owner fails to removed the antenna or tower within that time, the Town shall remove the antenna or tower at the owner's and operator's expense. In the event that the cost of removal is not paid, the Town may assess the cost of such removal against the property upon which the wireless communications facility is located.
- (4) **SITE RESTORATION.** Whenever a tower is removed from a wireless communications facility, the remainder of the site shall e restored to its preexisting condition and all buildings, equipment and other devices accessory to the tower shall be removed from the site.

SECTION 9. TOWERS SUPPORTED BY GUY WIRES PROHIBITED.

No tower supported in full or in part by guy wires shall be permitted anywhere in the Town of Janesville.

SECTION 10. LEGAL NONCONFORMING FACILITIES.

Preexisting towers, antenna support structures, antennas or wireless communications facilities which do not conform to the requirements of this Ordinance, shall be permitted to continue in accordance with the provisions of Section 10 of the Zoning Code of the Town of Janesville which deals with nonconforming buildings, structures and uses.

SECTION 11. ENFORCEMENT.

Any person who violates any provision of this Ordinance shall, upon conviction of such violation, be subject to a penalty as provided in section 2.4 of the Zoning Ordinance and the provisions of Sections 2.5 and 2.6 of the Zoning Ordinance shall apply to any violation of any provision of this Ordinance.

SECTION 12. This Ordinance will take effect and be in force after passage and publication as required by law.

TOWN OF JANESVILLE

By: _____
Edward Marshall, Chairman

ATTEST:

Gloria Brown, Clerk

Date of Public Hearing: _____

Date Passed: _____

Date Published: _____

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