

TOWN OF WILSON

ORDINANCE NO. 16 - 2002

**AN ORDINANCE TO AMEND THE ZONING CODE TO ADDRESS
WIRELESS TELECOMMUNICATION FACILITIES**

The Town Board of the Town of Wilson, Sheboygan County, Wisconsin, do ordain as follows:

WHEREAS, the Town of Wilson is authorized to enact zoning regulations to promote the public health, safety and general welfare of the citizens of the Town of Wilson as provided under Sections 62.23 and 61.35, Wis. Stats; and

WHEREAS, the present zoning code does not include a uniform and comprehensive set of standards for wireless telecommunication and related facilities, and this Board concludes that a set of such standards is necessary; and

WHEREAS, this Ordinance is the result of extensive study, public input and expert advice, and this Board believes it is in the public interest to amend the zoning code in accordance with this Ordinance.

NOW, THEREFORE, the Town of Wilson Zoning Code is amended to create Section 26 to read as follows:

"Section 26.00 Wireless Telecommunication Facilities

26.01 Purpose

With the goal of promoting the public health, safety and general welfare of the citizens of the Town of Wilson, the purposes of this section are to:

- (1) Minimize the adverse visual effects of telecommunication towers, antennas and related facilities through design and siting standards,
- (2) Allow a non-discriminatory, competitive and broad range of telecommunication services and high quality telecommunication infrastructure consistent with the Federal Telecommunications Act of 1996,
- (3) Provide a permitting process that protects the legitimate interests of the Town of Wilson,
- (4) Protect environmentally sensitive areas of the Town of Wilson,
- (5) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the capacity to locate three or more providers, and
- (6) Ensure that the construction of towers within the Town of Wilson is performed in accordance with the Town's Tower Infrastructure Plan.

Nothing in this ordinance shall be construed to allow wireless telecommunication providers to prohibit, restrict or control development or rezoning of properties owned by others, or to otherwise impair the rights of property owners to develop their lands as they choose provided that Town approval has been obtained when necessary.

26.02 Definitions

For purposes of this section, the following terms and phrases shall have the meanings stated. If any definition below conflicts with or overlaps a definition found elsewhere in the zoning ordinance, application of the definition below shall be limited to this section.

(1) **Alternative Support Structure:** Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities and/or antennas.

(2) **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 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 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.

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

(4) **Antenna, Ground Mounted:** Any antenna with its base placed directly on the ground.

(5) **Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any person, animal, equipment, goods or materials of any kind, including external equipment cabinets.

(6) **Camouflaged Tower:** Any telecommunication tower that due to design or appearance hides, obscures or conceals the presence of the tower and/or its antennas.

(7) **Colocated Telecommunication Facility:** A telecommunication facility comprised of a telecommunication tower or alternative support structure supporting antennas, dishes, or similar devices owned or used by more than one public or private entity. Also known as "colocation".

(8) **Colocator:** The second and all subsequent providers of wireless telecommunication services to be located at a telecommunication facility.

(9) Conditional Use Permit: Written authorization from the Town of Wilson to an applicant to construct a telecommunication facility or to connect to, expand, modify, or otherwise utilize an existing telecommunication facility.

(A Conditional Use Permit is required if the applicant does not qualify for a Telecommunication Facility Permit under section 26.07. See section 26.06.)

(10) Guyed Tower: A telecommunication tower that is supported in whole or in part by devices other than the superstructure of the support tower, such as guy wires or ground anchors.

(11) Height, Telecommunication Facility: The distance measured from the original grade at the base of the tower to the highest point of the telecommunication facility, including the tower and any attached antennas, protection devices such as lightning rods, and lighting. In the case of "crank-up" or other height-adjustable towers, height shall be determined by the maximum height to which it is capable of being raised. The height of building mounted antennas shall be determined by adding the height of the building above the lowest adjacent grade to the highest point of the telecommunication facility.

(12) Lattice Tower: A self-supporting telecommunication tower that consists of vertical, horizontal and/or diagonal supports and braces.

(13) Monopole: A self-supporting telecommunication tower of a single pole design.

(14) Navigable Stream or Lake: A waterway designated as navigable by the Wisconsin Department of Natural Resources (DNR), or as designated on a United States Geological Survey (USGS) map, or by the Town of Wilson Board utilizing DNR or USGS standards.

(15) Non-Conforming: Any telecommunication facility that was in existence and operation prior to the enactment of this ordinance, and for which all applicable permits were issued at the time of construction.

(16) Operation: A telecommunication facility is in operation when it is fully and regularly functioning for its intended purpose as a component of a telecommunication system.

(17) Platform: A support system used to connect antennas and antenna arrays to telecommunication towers or alternative support structures, generally designed to facilitate maintenance access to the antennas.

(18) Preferred Tower Area (PTA): Preferred Tower Areas consist of:

(a) the areas specifically delineated as such on the attached map, which is incorporated by reference; and

(b) all parcels owned on the date of enactment of this ordinance by the Town of Wilson.

(19) **Satellite Dish:** A device incorporating a reflective surface that may be solid, open mesh, or bar configured and that may be shallow dish, cone, horn, or cornucopia shaped and that is used to transmit and/or receive electromagnetic signals. Examples include but are not limited to satellite earth stations, TVROs and satellite microwave antennas.

(20) **Telecommunication Facility:** A facility, site or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices and support equipment used for transmitting, receiving or relaying telecommunication signals, excluding those facilities exempted under subsection 26.03.

(21) **Telecommunication Facility Permit:** Written authorization from the Town of Wilson to an applicant to construct a telecommunication facility or to connect to, expand, modify, or otherwise utilize an existing telecommunication facility. If an applicant qualifies under section 26.07, a Telecommunication Facility Permit may be issued in lieu of a Conditional Use Permit. (See section 26.06.)

(22) **Telecommunication Support Facility:** The telecommunication support buildings and equipment cabinets located at a telecommunication facility, either on the ground or within or on an alternative support structure, which house the electronic receiving and relay equipment.

(23) **Telecommunication Tower:** Any structure that is designed and constructed primarily for the purpose of support of one or more antennas, including camouflaged towers, lattice towers or monopole towers. Examples include but are not limited to microwave towers, common-carrier towers, and radio and television transmission towers.

(24) **Tower Infrastructure Plan:** The Town of Wilson's approved Tower Infrastructure Plan consists of the attached list of Preferred Tower Areas and the attached map showing the locations of the Preferred Tower Areas, both of which are incorporated into this ordinance by reference.

(25) **Utility Pole Mounted Antenna:** An antenna attached to or mounted upon a electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure.

(26) **Wireless Telecommunication:** Any of the following:

- a. Commercial mobile services defined as for-profit mobile services available to the public or a substantial portion of the public and providing the ability to access or receive calls from the public switched telephone network. Examples include personal communication services, cellular radio mobile services, and paging.
- b. Specialized Mobile Radio (SMR) service licensees providing land mobile communications on a commercial or private basis.
- c. Broadband Cellular Personal Communication Systems (PCS).

- d. Unlicensed wireless services which do not require licenses by the Federal Communications Commission (FCC), but are deployed through equipment that is authorized by the FCC. Direct-to-home satellite services are excluded from this definition by 47 U.S.C. §332(c)(7)(C)(iii).
- e. Common carrier wireless exchange access services, which are competitive alternatives to traditional wireline local exchange providers.
- f. Radio and television broadcasting.

26.03 When Conditional Use Permit/Telecommunication Facility Permit Not Required

The following shall be permitted without the need to apply for a conditional use permit under subsection 26.06 or a telecommunication facility permit under subsection 26.07, provided that the primary use of the property is not a telecommunication facility, that the antenna use is accessory to the primary use of the property, and that a building permit and all other permits that may be needed under Town, county, state or Federal law shall have been obtained:

- (1) Provided the height does not exceed 70 feet, wireless Internet antennas, receive-only television antennas and satellite dishes, and all other satellite dishes or antennas whose regulation is prohibited by state law or preempted by Federal law.
- (2) Antennas for federally licensed amateur radio operators and/or receive-only radio antennas.
- (3) Mobile services providing public information coverage of news events of a temporary or emergency nature.
- (4) Ground mounted antennas and their support towers, poles or masts if the height of the telecommunication facility does not exceed 50 feet above the original grade at the site of the installation.
- (5) Building mounted antennas or antennas on alternative support structures if the height of the telecommunication facility does not exceed 25 feet above the highest part of the building or alternative support structure to which they are attached.
- (6) Utility pole mounted antennas if the height of the telecommunication facility does not exceed 25 feet above the highest part of the utility pole.

26.04 When Conditional Use Permit or Telecommunication Facility Permit Required

Any telecommunication facility not exempted by subsection 26.03 from the permit obligation may be permitted only upon issuance of a conditional use permit under subsection 26.06, or upon issuance of a telecommunication facility permit under subsection 26.07, whichever is applicable.

26.05 Prohibited Locations for Telecommunication Facilities

Except for telecommunication facilities located in a PTA or exempted by subsection 26.03, no telecommunication facilities shall be permitted within:

- (1) Historic sites and districts listed on the National Register of Historic Places.
- (2) Natural areas and critical species habitat areas as identified by the United States Fish and Wildlife Service, the United States Environmental Protection Agency, the United States Army Corps of Engineers, or the Wisconsin Department of Natural Resources.
- (3) Wetlands as delineated by the Wisconsin DNR or as identified in the Wisconsin Wetland Inventory or by the U.S. Army Corps of Engineers.
- (4) Zoning classifications R-1, R-2, R-3, C-1, and P-1.

26.06 Conditional Use Permit

Amendment of a prior conditional use permit or locating and constructing a telecommunication facility shall require a conditional use permit for any facility not subject to subsection 26.07. In addition to all requirements set forth in section 8.00, Conditional Uses, applicants for a conditional use permit for a telecommunication facility shall comply with this subsection.

- (1) **Submittal Information.** Applicants shall submit a completed Tower Site Assessment and Permit Application. Application forms may be amended from time to time. Current forms shall be available from the Town Clerk. In addition to the information and documents requested on the application form, applicants shall furnish any additional information and documents that may be requested by the Building Inspector, Town technical experts, Plan Commission, Town Clerk, or any member of the Town Board.
- (2) **Application Fee.** In addition to the current standard fee for conditional use applications under section 8.00, applicants shall submit an additional non-refundable application fee and an advance deposit in the amounts determined by the Town Board to be escrowed by the Town Clerk for the fees and expenses of the Town's technical experts (see 26.06[4] below.)
- (3) **Colocation.** All telecommunication facilities and telecommunication support facilities issued a conditional use permit on or after the effective date of this section and any telecommunication facility previously issued a conditional use permit requiring colocation sites shall make available unused space for colocation of other telecommunication facilities, including space for those entities providing similar, competing services, as long as specific colocators will not permanently impair the structural or electronic integrity of the installation. All colocated and multiple-user telecommunication facilities shall be designed to promote site sharing to the maximum practical extent, at least equal to the number of carriers specified in the Town of Wilson Tower Infrastructure Plan. Telecommunication towers and necessary appurtenances, including, but not limited to parking areas, access roads and utilities shall be shared by the site users. Ground space shall be reasonably available to colocators.

In the event the private parties are unable to reach agreement on any issue related to colocation, the private parties shall arbitrate the dispute, and agree not to add the Town of Wilson or any of its officials, commissions, agencies, or members thereof as a party to the arbitration. Each arbitrator shall pick a representative for the arbitration panel. The two persons selected shall select a third person. The three persons chosen shall arbitrate the dispute. The arbitrators shall split the costs of arbitration equally. The permittee shall make this arbitration provision known to any party with whom it is unable to reach agreement for colocation. The arbitrator shall consider prevailing market rates in the region, contractual provisions, which are standard in the industry, or master colocation agreements on the issue subject to arbitration. The arbitration provisions hereof shall be applicable to both the landowner and the telecommunication facility owner or operator when negotiating with a prospective colocator and shall be deemed a condition of any conditional use permit issued hereafter whether or not specifically set forth in said permit. Any private party seeking arbitration may request arbitration from the appropriate other party after expiration of 90 days from commencement of negotiations. Arbitration shall be promptly completed. Failure to engage in arbitration as required hereunder shall constitute a violation of this section.

(4) Technical Review. The Town may employ one or more technical experts in engineering, law, municipal planning, or related fields to review materials submitted by applicants, to request additional information from applicants, to advise Town officials whether the application fully complies with all applicable requirements, and to make further recommendations to Town officials as the technical experts deem to be relevant and appropriate. The applicant shall pay all the costs of said reviews. The payment to the Town shall be due upon receipt of the invoices. All invoices, fees and charges accumulated for the technical reviews must be paid in full prior to the issuance of the conditional use permit. A decision by the Town Board to decline to issue a conditional use permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection.

26.07 Telecommunication Facility Permit - In Preferred Tower Areas; New Antennas On Existing Towers Outside Preferred Tower Areas

The intent of this subsection is to provide a streamlined approval process for telecommunication facilities located in PTAs, and for new antennas installed on an existing telecommunication tower outside a PTA if neither the height nor footprint of the telecommunication facility is increased by the installation of the antennas and the profile of the tower is not substantially changed by the installation of the antennas. If new antennas on an existing tower outside a PTA do not qualify under the preceding sentence, subsection 26.06 shall apply and a conditional use permit shall be required.

The site map attached hereto that designates specific areas as PTAs for telecommunication facilities is adopted and incorporated by reference. The first telecommunication facility in each PTA shall be subject to this subsection. The

second and all subsequent telecommunication facilities in a particular PTA shall be required to obtain a conditional use permit under subsection 26.06.

(1) Submittal Information. Applicants shall submit a completed Tower Site Assessment and Permit Application. Application forms may be amended from time to time. Current forms shall be available from the Town Clerk. In addition to the information and documents requested on the application form, applicants shall furnish any additional information and documents that may be requested by the Building Inspector, Town technical experts, Plan Commission, Town Clerk, or any member of the Town Board.

(2) Application Fee. In addition to the current standard fee for conditional use applications under section 8.00, applicants shall submit an additional non-refundable application fee and an advance deposit in the amounts determined by the Town Board to be escrowed by the Town Clerk for the fees and expenses of the Town's technical experts (see 26.07[4] below.)

(3) Colocation. All telecommunication facilities and telecommunication support facilities issued a telecommunication facility permit on or after the effective date of this section and any telecommunication facility previously issued a telecommunication facility permit requiring colocation sites shall make available unused space for colocation of other telecommunication facilities, including space for those entities providing similar, competing services, as long as specific colocators will not permanently impair the structural or electronic integrity of the installation. All colocated and multiple-user telecommunication facilities shall be designed to promote site sharing to the maximum practical extent, at least equal to the number of carriers specified in the Town of Wilson Tower Infrastructure Plan. Telecommunication towers and necessary appurtenances, including, but not limited to parking areas, access roads and utilities shall be shared by the site users. Ground space shall be reasonably available to colocators. In the event the private parties are unable to reach agreement on any issue related to colocation, the private parties shall arbitrate the dispute, and agree not to add the Town of Wilson or any of its officials, commissions, agencies, or members thereof as a party to the arbitration. Each arbitrator shall pick a representative for the arbitration panel. The two persons selected shall select a third person. The three persons chosen shall arbitrate the dispute. The arbitrators shall split the costs of arbitration equally. The permittee shall make this arbitration provision known to any party with whom it is unable to reach agreement for colocation. The arbitrator shall consider prevailing market rates in the region, contractual provisions, which are standard in the industry, or master colocation agreements on the issue subject to arbitration. The arbitration provisions hereof shall be applicable to both the landowner and the telecommunication facility owner or operator when negotiating with a prospective colocator and shall be deemed a condition of any telecommunication facility permit issued hereafter whether or not specifically set forth in said permit. Any private party seeking arbitration may request arbitration from the appropriate other party after expiration of 90 days from commencement of negotiations. Arbitration shall be promptly

completed. Failure to engage in arbitration as required hereunder shall constitute a violation of this section.

(4) **Technical Review.** The Town may employ one or more technical experts in engineering, law, municipal planning, or related fields to review materials submitted by applicants, to request additional information from applicants, to advise Town officials whether the application fully complies with all applicable requirements, and to make further recommendations to Town officials as the technical experts deem to be relevant and appropriate. The applicant shall pay all the costs of said reviews. The payment to the Town shall be due upon receipt of the invoices. All invoices, fees and charges accumulated for the technical reviews must be paid in full prior to the issuance of the telecommunication facility permit. A decision by the Town Board to decline to issue a telecommunication facility permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection.

26.08 Facility Information Report

The purpose of this subsection is to provide the Town with accurate and current information concerning the telecommunication facility owners and providers who offer or provide telecommunication services within the Town, or that own or operate telecommunication facilities within the Town, to assist the Town in enforcement of this subsection, and to assist the Town in monitoring compliance with local, state and federal laws.

(1) **Information Report.** All telecommunication tower owners of any new telecommunication tower shall submit to the Town Clerk a telecommunication Facility Information Report (the "Report") within 45 days following any change in occupancy of the tower, or following receipt of a written request from the Town Clerk. The Report shall include the tower owner name(s), address (es), phone number(s), contact person(s), and proof of bond as security for removal. The tower owner shall supply the tower height, list of current occupants, and the number of colocation positions designated, occupied or vacant.

(2) **Applicability to Nonconforming Facilities.** All owners of telecommunication towers that qualify as nonconforming under subsection 26.02(15) shall be subject to this subsection commencing upon a change in ownership or occupancy, but in no event later than January 1, 2003.

(3) **Information Report Fee - Initial Report.** The fee payable by the tower owner to the Town for filing the first Report required by this subsection shall be determined by the Town Board and shall be submitted to the Town Clerk with the Report. If a fee was paid for such tower within the previous six months under subsection 26.06(2) or subsection 26.07(2), the initial fee under this subsection shall be reduced to the amount determined by the Town Board. The fee submittal is the responsibility of each tower owner. Failure to provide this information as required above may result in a civil forfeiture for each day elapsing until the information is

received by the Town Clerk.

(4) Information Report Fee - Subsequent Reports. The fee payable by the tower owner to the Town for filing a Report subsequent to the first Report required by this subsection shall be determined by the Town Board and shall be submitted to the Town Clerk with the Report.

(5) Penalty. If a tower owner fails to promptly file a Report when due, fails to provide complete and accurate information on the Report, or fails to submit the fee that is due, the owner shall be subject to a civil forfeiture of not less than \$100.00 and not more than \$10,000.00 for each violation. Each day of noncompliance shall constitute a separate violation. In addition to the forfeiture, the Town may impose additional penalties including revocation of any conditional use permit or telecommunication facility permit and an order to disconnect, disassemble and remove the telecommunication tower.

26.09 Removal/Security for Removal

(1) Telecommunication towers must be removed once they are no longer in operation and not a functional part of providing telecommunication service. It is the telecommunication provider's responsibility to remove such telecommunication tower and restore the site to a condition acceptable to the Town of Wilson Plan Commission. Site restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunication tower down to 5 feet below the surface. After a telecommunication tower is no longer in operation, the provider shall have 180 days to effect removal and restoration. The permittee shall provide a signed and notarized document in recordable form to the Town of Wilson Clerk stating the existence, description and exact location of any subsurface structure remaining.

(2) Security for Removal. The owner of any telecommunication tower other than a unit of government shall provide to the Town of Wilson prior to the issuance of the conditional use permit or telecommunication facility permit a performance bond in the amount of Twenty Thousand Dollars (\$20,000.00) or such other amount established by the Town Board after recommendations from the Town's technical experts, to assure that funding exists for removal of the telecommunication tower. The Town of Wilson will be named as obligee in the bond and must approve the bonding company. The Town may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index. The provider shall supply any increased bond within a reasonable time, not exceeding sixty (60) days, after the Town's request.

26.10 Preexisting Telecommunication Facilities

Except for routine maintenance and repair, the owners of telecommunication towers, antennae and facilities in existence on the date of enactment of this ordinance may not rebuild the tower, or add, move or replace antennas or support facilities, without first obtaining a telecommunications facility permit.

26.11 Compliance

- (1) Revocation. Grounds for revocation of the conditional use permit or telecommunication facility permit shall include:
 - a. The owner of such site, service provider and/or tower owner fails to comply with the requirements of this section.
 - b. The permittee fails to comply with the conditions imposed by the permit.
 - c. The permittee is adjudged in violation of a rule, regulation and/or decision promulgated by a state or federal agency with jurisdictional oversight of wireless telecommunications, or a court of competent jurisdiction, and has not cured the deficiency within the time period designated by the agency or court, or if no time period was designated, within a reasonable time.

- (2) Revocation Process.
 - a. The owner of such site, service provider and/or tower owner shall be notified by certified mail of noncompliance and warning of intent to revoke by the Town Clerk upon direction of the Town Board.
 - b. The owner shall have 30 days after receipt of the noncompliance notice to either correct the deficiencies or to file a written request for a hearing with the Town Clerk.
 - c. If a written request for hearing is received within 30 days, the Town Board shall schedule a due process hearing and shall provide at least seven days advance notice to the owner. The Town Board shall consider all relevant evidence at the due process hearing. The Town Board of Zoning Appeals may decide to revoke the permit, to suspend the permit with or without conditions, or to dismiss the matter, as it deems appropriate under the circumstances. If the Town Board revokes or suspends the permit, or imposes any other penalty, it shall prepare a written decision incorporating its findings of fact and reasoning.
 - d. If no request for hearing has been received and compliance is not obtained within 30 days after receipt of the noncompliance notice, the Town Board may summarily revoke or suspend the permit with or without conditions, as it deems appropriate under the circumstances.

- (3) Abandonment. Any antenna or telecommunication tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon written notification from the Town Board after expiration of such time:
 - a. The owner of such antenna or telecommunication tower shall remove said antenna or telecommunication tower including all supporting equipment, building(s) and support foundations to the depth as otherwise herein required within ninety (90) days of receipt of notice. If removal to the satisfaction of the Town Board does not occur within said ninety (90) days, the Town Board may order removal utilizing the established bond as provided above and salvage said antenna or tower and all supporting equipment

and building(s).

b. The recipient of a conditional use permit or telecommunication facility permit allowing a telecommunication tower under this section, or the current owner or operator, shall notify the Town of Wilson Clerk within 45 days after cessation of operation of the tower.

26.12 Structural, Design and Environmental Standards

(1) Tower, Antenna and Facilities Requirements. All telecommunication facilities, except exempt facilities as defined above, shall be designed to reduce the negative impact on the surrounding environment by implementing the measures set forth below:

a. All telecommunication facilities shall comply at all times with all Federal Communications Commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combinations of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communications Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal government. All telecommunication support structures and antennae shall meet or exceed the applicable standards and regulations of the Federal Aviation Administration (FAA), the Wisconsin State Bureau of Aeronautics, the Occupational Safety and Hazard Association (OSHA), the Federal Communications Commission (FCC) and any other agency of the State and/or Federal government with the authority to regulate towers and antennas. Determinations by the State or Federal agencies responsible for enforcing the regulations set forth above shall be binding on the applicant and Town.

b. Telecommunication towers shall be constructed of metal or other nonflammable material and shall have exterior surface finishes that minimize reflectivity, unless otherwise specified by the Town Board.

c. Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions.

d. Telecommunication support facilities shall be no taller than fifteen feet (15') in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility from nearby roads and neighboring properties. Telecommunication support facilities for all tower users at one telecommunication facility shall not exceed a total of 1600 square feet of floor area.

e. Telecommunication facilities and antennas shall be designed and constructed in accordance with all applicable codes, including but not limited to the State of Wisconsin Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, Uniform Fire Code, Town of Wilson Ordinances,

Sheboygan County Code, Electronic Industries Association (EIA), American National Steel Institute Standards (ANSIS), American National Standards Institute (ANSI), and Electronic Industry Association/Telecommunication Industry Association (EIA/TIA) 222-E.3. The owner of a telecommunication facility or antenna shall submit to the Plan Commission a statement of compliance with all applicable codes and shall list the codes that are applicable.

f. The maximum height of an antenna platform located on a rooftop shall be twenty (20) feet above the roof.

g. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Town.

h. Unless permitted by the Town Board, towers shall be constructed so as to accommodate the number of colocators specified in the Town of Wilson Tower Infrastructure Plan. Capability for colocators need not be available on the tower as initially placed or constructed, provided that the tower will support at least the specified number of colocators at or below the specified maximum height.

(2) Height. The maximum height of a telecommunication facility (except radio or television broadcasting towers) shall be 199 feet. Notwithstanding the height and number of colocation sites on the tower as initially placed or constructed, and unless a lower height is specified in the Town of Wilson Tower Infrastructure Plan, the tower design approved and permitted shall be for a tower capable of extension to 199 feet in height, including the required colocation antennas. This provision shall not apply to broadcast facilities licensed by the FCC, such as radio and television stations.

(3) Lighting. Telecommunication towers shall be lighted in accordance with rules of the Federal Aviation Administration (FAA) and Wisconsin Department of Transportation, Bureau of Aeronautics. For applications requiring conditional use permits, the Town Board may require lighting of towers in areas subject to localized air traffic concerns such as crop dusting.

(4) Site Development, Roads and Parking. A leased parcel intended for the location of new telecommunication facilities and telecommunication support facilities shall be located so as to permit expansion for telecommunication support facilities to serve all potential colocators. A parcel owned by the telecommunication carrier and/or provider and intended for the location of new telecommunication facilities and telecommunication support facilities shall meet the minimum size requirement of the zoning district. All sites must be served by an easement sufficient to provide a turnaround and access for emergency

vehicles. Sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the Town of Wilson Plan Commission.

(5) Fire Prevention. All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

(6) Noise and Traffic. All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. Noise producing construction activities shall take place only on days other than Sundays or holidays between the hours of 7:00 a.m. and 7:00 p.m., except in times of emergency repair, and backup generators shall be operated only during power outages and for testing and maintenance purposes.

(7) Environmental Studies. The telecommunication facility's owner or operator shall cooperate with any bona fide study to determine the impact of the facility on birds or other wildlife, including permitting regular inspection of the area immediately surrounding the facility by those conducting the study. The cost of any environmental study ordered by a state or federal agency with jurisdictional oversight shall be paid by the facility owner. In all cases, the owner will comply with the Federal Environmental Protection Act.

26.13 Setback Requirements

All setbacks shall be measured from the base of the tower or structure. The following minimum setbacks shall apply unless a different distance is established in a conditional use permit or a telecommunication facility permit:

(1) Setbacks from all habitable residential buildings. All new towers shall be set back from all habitable residential buildings on the host property or on adjoining properties a distance at least 125% of the height of the tower, or 249 feet, whichever is greater. In addition, towers shall not be placed closer to a residence on neighboring properties than the distance of the tower from the residence or principal structure on the host property.

(2) Setbacks from streets. All new towers shall be set back from the traveled portion of all streets the greater of the distance established in the zoning code, 100% of the height of the tower, or 199 feet.

(3) Setbacks from property lines. All new towers shall be set back from all property lines a minimum of 100% of the height of the tower, or 199 feet, whichever is greater.

(4) Guy wire anchor setback. All guy wire anchors shall be at least twenty-five (25) feet from all property lines.

(5) Setbacks from zoning districts in which towers are prohibited. Every new tower shall be set back a minimum of 125% of its height, or 249 feet,

whichever is greater, from the boundary of any zoning district in which the tower would be a prohibited use.

(6) Towers on Town property. Telecommunication towers on Town-owned property shall be exempt from the setback requirements in this subsection.

26.14 Permits. A Town of Wilson building permit is required for the location of all telecommunication facilities. The applicant shall submit such information as may be required by the Building Inspector.

26.15 Fees. The fees to be charged for permits required under subsection 26.06, 26.07, 26.08, and 26.09 of this ordinance shall be determined from time to time by the Town Board and printed in a schedule to be maintained by the Town Clerk. Additional fees may be due under other sections of the Town of Wilson code."

SECTION 2: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

SECTION 4: This Ordinance shall take effect upon enactment and publication. Enacted this 7th day of October 2002.
Town of Wilson by Kenneth F. Sonntag, Chairman

This is to certify that the foregoing Ordinance was duly enacted by the Town Board of the Town of Wilson on the 7th day of October, 2002. Catherine Conrad, Clerk
Published in the Sheboygan Press October 16, 2002.