

CEDAR COUNTY ORDINANCE #30

AN ORDINANCE REGULATING THE PLACEMENT OF TELECOMMUNICATIONS TOWERS AND ANTENNAS ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF CEDAR COUNTY, IOWA.

BE IT ENACTED BY THE CEDAR COUNTY BOARD OF SUPERVISORS:

SECTION 1. PURPOSE. The purpose of this ordinance is to establish general guidelines for the siting of towers and antennas for commercial wireless telecommunications as provided for in the federal Telecommunications Act of 1996 and any other communication towers which meet the structural criteria listed in this ordinance.

SECTION 2. DEFINITIONS. For use in this ordinance, certain words used herein shall be defined as follows:

- A. ANTENNA. Any structure or device used to collect or radiate telecommunications signals.
- B. HEIGHT. The vertical distance measures from the base of the structure to the highest point of the structure.
- C. TELECOMMUNICATIONS. The transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- D. TELECOMMUNICATIONS TOWER. Any guyed, monopole, or self-supporting tower, constructed as a free-standing structure or in association with a building or other permanent structure, containing one or more telecommunications antennas, any part of which exceeds 100 feet in height.

SECTION 3. SPECIAL EXCEPTION. A telecommunications tower may be permitted as a Special Exception use as provided in the Cedar County Zoning Ordinance upon determination that all of the applicable conditions in the ordinance are met. Special Exception Use applications are submitted to the Cedar County Board of Adjustment for action after review and recommendation by the Cedar County Planning and Zoning Commission. No additional permits are required for placement of additional equipment on existing towers.

SECTION 4. PERMITTED LOCATIONS. Telecommunications towers are permitted as a Special Exception use in the Agricultural (A-1), Agricultural-Recreational (AR-1), Local Commercial (C-1), Highway Commercial (C-2), Light Industrial (M-1) and Heavy Industrial (M-2) Zoning Districts. Telecommunication towers are not permitted in the Suburban Residential (R-1), Urban Residential (R-2) or the Multi-Family Residential (R-3) Zoning Districts.

SECTION 5. APPLICATION REQUIREMENTS. The applicant for a Special Exception for construction of a telecommunications tower or placement of commercial telecommunications tower on an existing structure other than a tower previously permitted shall file an application, as provided by Chapter 17, Section 18(2) of the Cedar County Zoning Ordinance, with the County Zoning Administrator accompanied by a fee as established by the Cedar County Board of Supervisors and payable to the Treasurer of Cedar County, Iowa. The application shall include the following documents:

- A. A site plan, drawn to scale, identifying the site boundary; tower location; tower height; guy wires and anchors; existing and proposed structures including accessory structures; photographs or elevation drawings depicting design of proposed structures, parking, fences and landscape plan; and existing uses on adjacent parcels.

- B. A current map showing locations of applicant's antennas, facilities, existing towers and proposed towers which are reflected in public records, serving any property within the County;
- C. A report from a structural engineer containing the following:
 - (1) A description of the tower, including a description of the design characteristics and material.
 - (2) Documentation to establish that the tower has sufficient structural integrity for the proposed uses at the proposed location and meets the minimum safety requirements in Electronics Industries Association (EIA) Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures".
 - (3) The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
- D. If applicant is other than the site owner, written authorization from the site owner for the application;
- E. Identification of the owners of all antennas and equipment to be located at the site;
- F. Pursuant to Subsection 6(A), evidence that the applicant contacted owners of all existing or approved towers within a one-half mile radius of the proposed new tower site, including county-owned property, and that the equipment for which the tower is being constructed cannot be technologically or structurally accommodated on an existing or approved tower;
- G. Evidence that a valid FCC license for the proposed activity has been issued;
- H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts (areas);
- I. An analysis/opinion of a certified real estate appraiser of the impact on the value of adjacent parcels;
- J. A written agreement to remove the tower and/or antenna within 180 days after cessation of use;
- K. Evidence that necessary FAA approval has been obtained;
- L. Evidence that the applicable conditions of Section 6 of this ordinance have been met;
- M. Additional information as required to determine that all applicable conditions of this ordinance have been met.

SECTION 6. APPLICABLE CONDITIONS. In addition to satisfactorily addressing the considerations set forth in Chapter 17, Section 18, Subsections (2)(d) and (2)(e) of the Cedar County Zoning Ordinance, any applicant must show that all of the following applicable conditions are met:

- A. Co-location. Prior to consideration of a permit, applicant must show existing or alternative tower structures on available publicly owned sites and available privately owned sites are unsuitable for co-location and operation of the facility.
- B. Applicant must show that the new tower is designed to accommodate applicant's future demand for additional antennas.
- C. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.
- D. All towers and telecommunications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At

a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, grey or black.

- E. For telecommunications towers on county property, applicant must file with the County Zoning Administrator a written indemnification of the County and proof of liability insurance or other proof of financial ability to respond to claims up to \$3,000,000.00 in the aggregate which may arise from operation of the facility during its life, in form approved by the County Attorney. This information shall be updated annually by the applicant.
- F. Land use regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general zoning regulations except setback and height shall apply to the telecommunications tower.
- G. For free-standing or guyed telecommunications towers, setbacks on all sides shall be a distance equal to 1/2 the height of the tower. For monopole towers, the setback shall be equal to the height of the tower.
- H. The base of any telecommunications tower shall be enclosed with a fence a minimum of six feet in height. The fenced areas shall be kept mowed, trimmed and free of trash and litter. The fence shall be kept in good repair.
- I. Upon completion, a sign at the entrance to the tower site shall identify name(s) and phone number(s) of whom to contact in case of emergency. At least one contact person shall be available twenty-four hours per day, seven days per week. The County shall be informed of any change in the person(s) or phone number(s) to be contacted in case of emergency, and the sign at the entrance to the tower site shall be updated to reflect such change.

SECTION 7. INSPECTION. At least every 24 months, every telecommunications tower shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of telecommunications towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection check list provided in the Electronics Industries Association (EIA) Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures". A copy of such inspection record shall be provided to the County.

SECTION 8. Transfer or Abandonment. The recipient of a special exception for a telecommunications tower shall notify the County prior to a transfer of ownership of the tower. Notification of the intended transfer shall include the date when transfer will be completed and the name, address and telephone number of the transferee. Any transferee shall be bound by the terms of the provisions of this ordinance and all agreements the transferee's predecessor entered into pursuant to this ordinance. The owner of a tower, for which a special exception for telecommunications purposes has been issued, who intends to cease use of said tower for telecommunications purposes, shall notify the County prior to discontinuation of its use for telecommunications purposes. Notification of an intended cessation of use shall include the date the tower will cease to be used for telecommunications purposes and the name, address and telephone number of the company which will dismantle and remove the tower upon cessation of its use for telecommunications purposes.

In the event a tower is not used for telecommunications purposes for a period of 180 days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Zoning Administrator. Upon such abandonment, the tower owner shall have an additional 180 days within which to (1) reactivate the use of the tower, or (2) dismantle and remove the tower. If a tower is not dismantled and/or removed as required hereunder, the County, in addition to any other remedies available to it, may dismantle and remove the tower and assess the cost against the property for collection in the same manner as a property tax, pursuant to Iowa Code Section 331.384 or amendments thereto.

SECTION 9. REPEALER. All ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 10. SEVERABILITY. Should any section or provision of this ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 11. PENALTY. Any person, persons, firm, partnerships or corporations, whether acting alone or in concert with any other, who violates this ordinance shall be guilty of a county infraction and shall be penalized as set forth in Ordinance #20, of the County Code of Cedar County, Iowa.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in effect after its final passage, approval and publication as provided by law.