

**TOWN OF EDEN
FOND DU LAC COUNTY, WISCONSIN**

LEGAL NOTICE

PLEASE TAKE NOTICE that on January 24, 2000 the Town Board of the Town of Eden adopted an ordinance amending the Town's Zoning Ordinance. The revisions approved by the Town Board are as follows:

SECTION 1. Add the following new section to Article IV regarding wireless telecommunications towers and antennas:

Wireless telecommunications towers and antennas may be installed, erected and maintained pursuant to the provisions of this section. Telecommunication towers and antennas shall not be regulated or permitted as essential services, public utilities or private utilities.

1. Purpose. The purpose of this ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the Town in regulating local zoning. The goals of this ordinance are to protect land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town shall give due consideration to the Zoning Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

2. Definitions. As used in this ordinance, the following terms shall have the meanings set forth herein:

- (a) **Alternative Tower Structure:** Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.
- (b) **Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (c) **Backhaul Network:** The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- (d) **Collocation:** The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.
- (e) **FAA:** Federal Aviation Administration.
- (f) **FCC:** Federal Communications Commission.
- (g) **Height:** When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.
- (h) **Preexisting Towers/Antennas:** Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance.

- (i) Tower: Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed 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. The term includes the structure and any support thereto.

3. Applicability.

- (a) New Towers and Antennas: All new towers or antennas in the Eden shall be subject to these regulations, except as provided in Sections 3(b) and 3(c).
- (b) Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (c) Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section S(b).

4. Permit Required. No tower or antenna shall be installed unless a permit is first obtained by the owner or his agent from the Building Inspector. 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 Building Inspector to be necessary to assess compliance with this ordinance;

- (b) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted 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;
- (f) Description of compliance with Section 5;

5. General Requirements. In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna:

- (a) Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (b) State or Federal Requirements. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (c) Collocation. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.
- (d) Height. Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
- (e) Setbacks. A tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.

- (f) Separation Between Land Uses. Tower separation shall be measured from the base of the tower to the lot line of the off-site use and/or designated area as specified herein. The minimum separation distance shall be 200 feet or 300% of the height of the tower, whichever is greater.
- (g) Aesthetics. Towers shall maintain galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (h) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
- (i) Lighting. Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (j) Fencing. A tower shall be enclosed by security fencing 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.

(k) Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(l) Appurtenant Equipment and Buildings. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of nonvegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

6. Permitted Uses.

(a) Antennas or Towers On Existing Structures: An antenna or tower may be situated on the roof of a residential, commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

- (b) Antennas On Existing Towers: The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that (1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole; (2) An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower; (3) After a tower is rebuilt to accommodate collocation, only one tower may remain on the site; and (4) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Town.
- (c) Cable Microcell Network: The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

7. Special Uses. The installation of towers and antennas, including the placement of appurtenant equipment or buildings, may be allowed only by special use permit and only in non-residential zoning districts. An application for a special use permit shall be subject to the procedures and requirements of Sections 11.0 and 12.35. In addition, a special use permit proposal shall include plans, specifications and other pertinent information and materials to demonstrate compliance with this ordinance.

8. Removal of Abandoned Antennas and Towers. An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

9. Nonconforming Uses.
 - (a) Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

 - (b) Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

10. Wireless Telecommunications Towers and Antennas
 - (a) Separation Between Towers. Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

New Tower Type	Existing Tower Type			
	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less than 75 Ft in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole 75 Ft in Height or Greater	1500	1500	1500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

(b) Tower Height: The following criteria shall apply in determining the maximum height of a tower:

- (1) For a single user, up to 90 feet.
- (2) For two users, up to 120 feet.
- (3) For three or more users, up to 195 feet.

(c) Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the Town to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

- (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

SECTION 2. Add the following provision to Article IV:

No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not particularly specified in this Ordinance may, nonetheless, be permitted by the Town Board, only if such uses are substantially similar in character to the principal uses permitted in the district.

SECTION 3: Add the following provision to Article IV:

Notwithstanding anything to the contrary in this Ordinance, the Town reserves the right to require applicants for zoning amendments, variances, or conditional uses to reimburse the Town for reasonable professional fees incurred by the Town for the review or administration of the matter contained in the relevant petition. The Town reserves the right to condition the issuance of the permit, rezoning or other action on the reimbursement of the professional fees incurred by the Town.

SECTION 4: Revise Section 6.32 relating to agriculturally-related residences to comply with the new standards contained in sec. 91.75(2)(b) 2 of the Wisconsin Statutes, as follows:

The only residences, whether pre-existing residences or not, that are allowed as permitted or conditional uses are those that have a use consistent with agricultural use and that are occupied by any of the following:

1. An owner of the parcel.
2. A person who, or a family at least one adult member of which, earns the majority of his or her gross income from conducting the farm operations on the parcel.
3. A parent or child of an owner who conducts the majority of the farm operations on the parcel.
4. A parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operations on the parcel.

SECTION 5. Revise Article XVI so that petitions for rezoning contain, at a minimum, the following information:

1. A map drawn to scale of 1" = 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned; and
2. The names and addresses of all property owners lying within 200 feet of the proposed area to be rezoned; and

3. Such additional information that may be required by the Zoning Committee or Town Board.

Adopted by the Town Board on the date set forth above.

Richard Guell, Town Chairperson