

RESOLUTION # 2014-11

A resolution to repeal and replace existing Telecommunications Facilities Ordinance, Chapter 30, Article VI, Section 30-567 Burnett County Code of Ordinances #TXT-14-03

WHEREAS, the Wisconsin Legislature passed Act 20 on July 1, 2013 which preempts most local control on the siting and regulation of cellular communication towers and,

WHEREAS, changes to Chapter 66 of the Wisconsin Statutes still allow counties to issue permits for the placement of cellular communications towers if appropriate local ordinances are amended and,

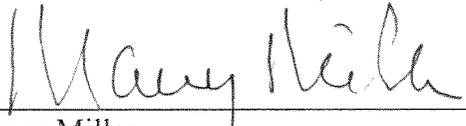
WHEREAS, the Burnett County Land Use and Information Committee did decide at their regular meeting on January 6, 2014 to issue permits for cellular tower siting in order to monitor their placement and receive associated revenue and,

WHEREAS, the attached Ordinance was created to allow the Land Use/Zoning Department to issue permits for cellular tower siting and,

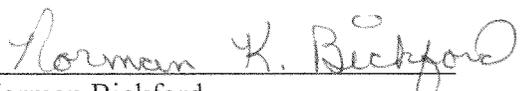
WHEREAS, the Land Use and Information Committee did hold a properly noticed public hearing on May 6, 2014 to adopt the ordinance.

THEREFORE BE IT RESOLVED that the attached ordinance be adopted this day, and be incorporated into Chapter 30, Article VI, Section 30-567 of the Burnett County Code of Ordinances, thereby repealing that existing ordinance division.

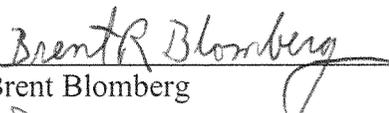
Respectfully submitted by the Land Use and Information Committee
Signed and dated this 6th day of May, 2014



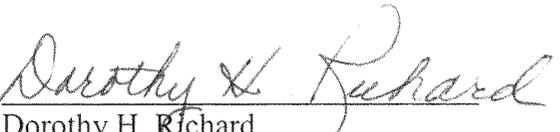
Maury Miller



Norman Bickford



Brent Blomberg



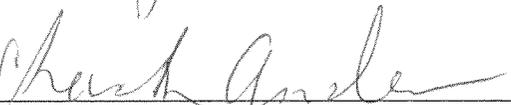
Dorothy H. Richard



Don Taylor



Philip Lindeman



Chuck Anderson

An Ordinance Repealing and Recreating Chapter 30, Article VI, (entitled Telecommunication Facilities) of the Burnett County Code of Ordinances. Chapter 30 is hereby recreated to read as follows:

SECTION 30-567. PURPOSE

The purpose of this ordinance is to regulate by zoning permits (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

SECTION 30-568. EXEMPTIONS

(a) Exempt from review under this division will be television antennas, satellite dishes one meter (or 39 inches) in diameter or less, satellite dishes used commercially and three meters in diameter or less, receive only antennas, amateur radio facilities, and mobile services providing public information coverage of news events or of a temporary or emergency nature.

(b) Exempt from the permitting requirements of this division will be satellite dishes more than one meter in diameter, ground mounted antennas not exceeding 100 feet in height, building mounted antennas not exceeding 25 feet above the highest part of the building to which they are attached, utility pole mounted antennas not exceeding 25 feet above the highest part of the utility pole to which they are attached.

(c) Exempt structures under this division are subject to all other applicable provisions of the Land Use/Land Use/Zoning Ordinance.

SECTION 30-569. DEFINITIONS

(a) The following definitions shall apply to this division unless the context dictates otherwise. All definitions in chapter 38, division 34, of the Burnett County Land Use/Zoning Ordinance, shall apply, unless specifically defined in this division.

Alternative support structure means structures including but not limited to clock towers, steeples, silos, light poles, water towers, freestanding chimneys, utility poles and towers, towers, buildings or similar structures that may support telecommunications facilities.

Antenna means 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.

Antenna building mounted means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

Antenna ground mounted means any antenna with its base placed directly on the ground.

Camouflaged tower means any telecommunications tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. Camouflaging may be accomplished by a suitable combination of the following examples lack of lighting, low tower height, non-contrasting colors, screening and landscaping, and others.

Carrier means companies licensed by the Federal Communications Commission (FCC) to build personal wireless telecommunications facilities and operate personal wireless telecommunications services. Also called a provider.

Class 1 Collocation means the placement of a new mobile service facility on an existing support structure, such that the owner of the facility does not need to construct a free standing support structure for the facility, but does need to engage in substantial modification.

Class 2 collocation means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

Co-location means a telecommunications facility comprised of a single telecommunications tower or building, supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

Guyed structure means a telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

Height, telecommunications tower means the distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, and lighting.

Lattice structure means a telecommunications tower that consists of vertical and horizontal supports and crossed metal braces.

Monopole structure means a telecommunications tower of a single pole design.

Operation means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications, it shall be deemed in operation.

Provider. See *Carrier*.

Satellite dish means a device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

Substantial modification means the modification of a mobile service support structure, including the mounting of an antenna on the structure that does any of the following:

1. For structures with an overall height of 200' or less, increases the overall height of the structure by more than 20'
2. For structures with an overall height of more than 200', increases the overall height of the structure by 10 percent or more
3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20' or more.
4. Increases the square footage of an existing equipment compound to a total area of more than 2500 square feet

Telecommunications facility means a facility, site, or location that contains one or more antennas, telecommunications towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals, excluding facilities exempted under section 30-568.

Telecommunications facility structure means a telecommunications tower or alternative support structure on which telecommunications antenna(s) may be mounted.

Telecommunications tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under section 30-568.

Utility pole mounted antenna means an antenna attached to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, or other approved similar structure.

(b) Additional definitions contained in s. 66.0404(1) are hereby incorporated by reference.

SECTION 30-570. SITING AND CONSTRUCTION OF ANY NEW MOBILE SERVICE SUPPORT STRUCTURE AND FACILITIES AND CLASS 1 COLLOCATION

A. Application Process

1. A land use permit is required for the siting and construction of any new mobile service support structure and facilities.
2. A written permit application must be completed by any applicant and submitted to the Burnett County Land Use/Zoning Department. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, (including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications).
 - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure, equipment, and network components, (including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment placed on or around the new mobile service support structure).
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not: result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. A permit application will be provided by the County upon request to any applicant.
4. If an applicant submitted to the County an application for a permit to engage in an activity described in this ordinance, which contains all of the information

required under this ordinance, the County shall consider the application complete. If the County does not believe that the application is complete, the County shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

5. Within 90 days of its receipt of a complete application, the County shall complete all of the following or the applicant may consider the application approved, except that the applicant and the County may agree in writing to an extension of the 90 day period:

- a. Review the application to determine whether it complies with all applicable aspects of the County's Land Use, Floodplain and Airport Height ordinances. Subject to limitations set by State Statutes 66.0404.
- b. Make a final decision whether to approve or disapprove the application.
- c. Notify the applicant, in writing, of its final decision.
- d. If the application is disapproved, written notification with substantial evidence which supports the decision shall be included.

6. The County may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.

7. If an applicant provides the County with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a Land Use ordinance, that Land Use ordinance does not apply to such a structure unless the County provides the applicant with substantial evidence that the engineering certification is flawed.

8. The fee for constructing new structure or facility, or Class 1 collocation permit is \$3000.00

SECTION 30-571. CLASS 2 COLLOCATION

A. Application Process

1. A land use permit is required for a class 2 collocation.
2. A written permit application must be completed by any applicant and submitted to the County. The application must contain the following information:

- a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
3. A permit application will be provided by the County upon request to any applicant.
4. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
5. If an applicant submits to the County an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the County shall consider the application complete. If any of the required information is not in the application, the County shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
6. Within 45 days of its receipt of a complete application, the County shall complete all of the following or the applicant may consider the application approved, except that the applicant and the County may agree in writing to an extension of the 45 day period:
 - a. Make a final decision whether to approve or disapprove the application.
 - b. Notify the applicant, in writing, of its final decision.
 - c. If the application is approved, issue the applicant the relevant permit.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
7. The fee for the permit is \$500.00

SECTION 30-572. REMOVAL OF ABANDONED TELECOMMUNICATIONS FACILITIES

It is the express policy of Burnett County that telecommunications facilities be removed and their sites restored to their pre-construction state once they are no longer in use and not a functional part of providing telecommunications service.

(a) Removal and restoration of such facilities is the responsibility of the owner of the facility.

(b) The telecommunications facility(s) shall be removed when use of the facility(s) has been discontinued or the facility not been used for its permitted purpose for 12 consecutive months. Mere intent to continue use of the facility(s) shall not constitute use. The applicant/owner shall demonstrate through facility(s), lease(s), or other similar instruments that the use will be continued without a lapse of more than 12 consecutive months to constitute actual use. If the applicant cannot demonstrate actual use, the facility shall be considered abandoned and shall be removed.

(c) This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility; to a level of three feet below grade.

(d) Nothing in this section prevents the removal of the facility prior to expiration of the 12-month period.

SECTION 30.573. REPORTING REQUIREMENTS

Notification shall be provided to the Zoning Department if any of the information changes in section(s) 30-570 or 30-571.