

ORDINANCE #50

TITLE: AN ORDINANCE REGULATING THE PLACEMENT OF TELECOMMUNICATIONS TOWERS AND ANTENNAS ON PROPERTY LOCATED IN MONONA COUNTY

BE IT ENACTED BY THE 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.

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 measured 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.

SECTION 3. SPECIAL USE, WITH RESTRICTIONS. A telecommunications tower may be permitted upon determination that all of the applicable conditions in this ordinance are met.

SECTION 4. HEIGHT LIMITATIONS. Telecommunications towers are a permitted special use in the following district with the specified height limitations:

Agricultural (A-1) and Agri-business (2) Districts: Free-standing or guyed tower with height not exceeding 500 feet. If additional tower height is requested, total tower height will not exceed 150% of the maximum height permitted in the county as a special use. Applicant must demonstrate that additional height above that permitted by this ordinance is necessary for service to residents of Monona County.

Telecommunications towers erected on existing structures other than telecommunications towers shall be allowed in any district, provided the height of the tower does not exceed one-third of the height of the existing structure and the total of the existing structure and the tower does not exceed 200 feet.

SECTION 5. APPLICATION REQUIREMENTS. The applicant for a special use permit for construction of a telecommunications tower, modifications to an existing tower or placement of a commercial telecommunications antenna on an existing structure other than a tower previously permitted shall file an application with the county zoning administrator accompanied by a fee established from time to time by Resolution of the Board of Supervisors. 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 abutting parcels. A site plan is not required if antenna is to be mounted on an approve existing structure;

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;

I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use;

J. Evidence that the applicable conditions of Section 6 of this ordinance have been met;

K. Additional information as required to determine that all applicable conditions of this ordinance have been met.

L. All applicants will apply for a Monona County 911 address and it will be displayed accordingly following the approval of the Telecommunications Permit Application. The applicant is required to have the 911 address and the application number on all correspondence to the Monona County Zoning office.

SECTION 6. APPLICABLE CONDITIONS. Any applicant must show that all of the following applicable conditions are met.

A. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites, are unsuitable for operation of the facility under applicable telecommunications regulations and applicant's technical design requirements. A tower is not allowed if technically suitable space can be found on an existing telecommunications tower within one-half mile radius of the proposed new tower site.

B. Applicant must show that the new tower is designed to accommodate applicant's future demand for additional antennas. The applicant agrees to submit an Engineer report stating that the tower meets Structural Standards for any modifications made to the existing tower.

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, gray or black.

E. For telecommunications towers on Monona 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 \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, in form approved by the Monona County Attorney. The Applicant will provide notice to Monona County if liability insurance is diminished, canceled, terminated, has changed in any form (i.e. carrier, applicant), or not renewed, and, identify the tower by the 911 address and application number.

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 the height of the tower.

H. The base of any telecommunications tower shall be screened from view with a solid screening fence a minimum of six feet in height.

SECTION 7. PERMIT PROCEDURES. Upon receipt of the special use permit application, the Monona County Zoning Administrator shall follow departmental procedures to process the application for new towers and modifications to existing towers.

SECTION 8. INSPECTION. At least every 24 months, every telecommunications tower shall be inspected by an expert who is regularly involved 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. Any deficiency discovered must be corrected within 90 days of review of report by the Monona County Board of Adjustment or the tower will be removed at the expense of the applicant.

SECTION 9. ABANDONMENT. In the event the use of any telecommunications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Monona County 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 the tower is not dismantled and removed as required, the county may do so and assess the costs against the property for collection in the same manner as a property tax, pursuant to Iowa Code 331.384.

SECTION 10. CHANGES IN BUSINESS STATUS. If a tower applicant sells, transfers, disposes of or yields control over its facilities and equipment and services and business interests used to support its obligation hereunder, or assigns any of its rights or delegates its obligations, or enters bankruptcy proceedings, executes an assignment for the benefit of creditors or ceases to exist or loses its license to operate or such license is limited in any way, applicant shall give legal notice to the Monona County Zoning office.

SECTION 11. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 12. SEVERABILITY. If any section or provision of this ordinance is held invalid by a court of competent jurisdiction, such holding shall not effect the validity of any other provision of this ordinance which can be given effect without the invalid portion and to this end, each section and provision of this ordinance is severable.

SECTION 13. PENALTY. Any person, as defined in Iowa Code 4.1(20), found to be in violation of any of the provisions of this ordinance shall be subject to a civil penalty of \$100 for each day of violation, or \$200 for each day of violation if the infraction is a repeat offense, pursuant to Iowa Code 331.302(15).

SECTION 14. EFFECTIVE DATE. This ordinance shall be in effect after its final passage, approval and publications provided by law.

/s/Timothy Jessen
TIMOTHY JESSEN, CHAIRMAN
/s/James W. Jensen
JAMES W. JENSEN
/s/Brady Hanson
BRADY HANSON

ATTEST:
/s/Marilyn M. Kelley
MARILYN M. KELLEY,
MONONA COUNTY AUDITOR

AUTHENTICATION

Pursuant to Section 331.302(8) of the Code of Iowa, the undersigned Auditor of Monona County, Iowa hereby certifies that Ordinance No. 50 was published once in the Onawa Democrat and Mapleton Press newspapers on the 14th day of May, 2014.

/s/Marilyn M. Kelley
MARILYN M. KELLEY,
MONONA COUNTY AUDITOR

STATE OF IOWA)
)SS:
COUNTY OF MONONA)

On this 20th day of May, 2014, the aforementioned Timothy Jessen, Chairman, Monona County Board of Supervisors, and Marilyn M. Kelley, Monona County Auditor, subscribed and sworn to be the same and signed in their official capacity as stated above in my presence on this 20th day of May, 2014.

SEAL:

/s/LeAnn M. McClure
NOTARY PUBLIC,
MONONA COUNTY, IOWA