



VILAS COUNTY

WIRELESS COMMUNICATION ORDINANCE

Chapter 27

Chapter 27.0

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VLAS COUNTY WIRELESS COMMUNICATION ORDINANCE

Chapter 27.0

27.01 Purpose and Intent

The purpose of this Wireless Telecommunication Ordinance is to ensure that residents, businesses and visitors in Vilas County have reliable access to wireless telecommunication networks and state of the art communication services. This objective is accomplished according to Vilas County's ordinances, ensuring and preserving the aesthetic character of the community for all to enjoy.

The Telecommunications Act of 1996 has preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless telecommunications facilities. Vilas County ensures the placement; construction and/or modification of wireless telecommunications facilities comply with all applicable Federal and State laws, and is consistent with Vilas County's Comprehensive Land Use Plan.

Vilas County recognizes that facilitating the development of wireless service technology can be an economic development asset to Vilas County and a significant benefit to its residents. Vilas County finds in order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, these regulations are necessary to:

History: (Amendment #2011-1A, Section 27.01 effective 06-22-11)

- (1) Facilitate provisions of wireless communications services to the residents and businesses of Vilas County;
- (2) Minimize adverse visual effects of towers through careful site and design standards;
- (3) Avoid potential damage to adjacent properties from tower failure through structural standards by using existing tall structures to accommodate new wireless telecommunication antennas in order to reduce the number of new towers needed to serve the community;
- (4) Encourage clustering of towers in appropriate locations;
- (5) Encourage co-location on towers; and
- (6) Provide a uniform and comprehensive set of standards for the development and installation of telecommunication towers, antennas, and related facilities.

27.02 Applicability

- (1) Wireless communication structures within the unincorporated areas of Vilas County that meet any of the following conditions are regulated under this section:
 - (a) Structures, including antennas and any other attachments or extensions, exceeding one hundred (100) feet in height above grade.

History: (Amendment #2011-1A, Section 27.02 effective 06-22-11)

- (b) Structures, regardless of height, which are required by Federal Regulations to be equipped with aviation hazard warning lighting.

History: (Amendment #2011-1A, Section 27.02 effective 06-22-11 removal of (c))

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- (2) Communication structures not meeting one or more of the conditions in 27.02(1) above are not regulated under this section but may be subject to regulation under other sections of this ordinance or other applicable regulations.

27.03 Definitions

- (1) *Alternate Tower Structure:* Shall mean man-made structures such as elevated tanks, electric utility transmission line towers, non-residential structures, and similar mounting structures that camouflage or conceal the presence of antennas or towers. Free-standing signs are not considered to be alternative tower structures.
- (2) *Antenna:* Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (Panel) or parabolic antenna (disc).
- (3) *Co-location:* The location of more than one antenna or set of antennas on the same tower or structure.
- (4) *Communication Tower Freestanding:* A ground mounted tower consisting of a pole, spire, structure, or combination thereof constructed with or without guy wires and anchors.
- (5) *Communication Tower Guyed:* A tower supported in whole or part by wires and ground anchors or other means of support besides the superstructure of the tower.
- (6) *Communication Tower Monopole:* A ground mounted tower consisting of a single pole constructed without guy wires and anchors.
- (7) *Commercial Wireless Telecommunication Services:* Licensed commercial wireless telecommunication services including cellular, wireless internet, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services that are marketed to the general public.
History: (Amendment #27-1, Section 27.03 effective 06-22-11)
- (8) *Compound:* Area that encompasses the tower and/or antenna, any structures associated with the tower or antenna, and any support wires for the tower or antenna.
- (9) *FAA:* Federal Aviation Administration.
- (10) *FCC:* Federal Communications Commission.
- (11) *Hazard:* Any man-made structure or object of natural growth, which obstructs the air space required for the flight of aircraft in landing or taking off at an airport.
- (12) *Height:* The distance measured from ground level to the highest point on a tower or structure, including any antenna.
- (13) *High Power Transmission Line:* A 69 kv or greater electric transmission line with towers at least 75 feet in height.

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- (14) *Microwave Antenna:* A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless communications, and including the wiring, related ground equipment and the supporting structure thereof.
- (15) *Public Utility:* Persons, corporations, or governments, supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this Ordinance, commercial wireless telecommunication services shall not be considered a public utility use and are defined separately.
- (16) *RF:* Radio frequency.
- (17) *Radio and Television Broadcast Receiving:* A wire, set of wires, metal or carbon fiber elements(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.
- (18) *Radio and Television Broadcast Transmitting:* A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the wiring, related ground equipment and the support structure thereof.
- (19) *Satellite Dish:* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and /or receive radio or electromagnetic waves between terrestrially and/or orbital based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations and satellite microwave antennas and the wiring, related ground equipment and support structure thereof.
- (20) *Short-wave Radio Transmitting and Receiving Antenna:* A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for non-commercial short-wave radio communications, and including the supporting structure.
- (21) *Tower:* Any commercial or public structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including guy towers, monopole towers and self-supporting lattice towers. Any ground or roof mounted, spire, structure, or combination thereof taller than one hundred (100) feet in height if free standing or 20 feet in height if roof mounted, including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.
- (22) *Tower Accessory Structure:* Any structure located at the base of a tower for housing base receiving or transmitting equipment of or relating to servicing the tower.

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- (23) *Wireless Communications:* Any personal wireless services as defined in the Telecommunications Act of 1996 or amended Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.

27.04 General Requirements

- (1) All towers and antennas shall comply with all FCC and FAA rules and regulations. FAA approval letters shall be submitted to Vilas County Zoning Office prior to construction.

History: (Amendment #2011-1A, Section 27.04 effective 06-22-11)

- (2) Design and installation of all towers and antennas shall comply with the manufacturer's specifications. Plans shall be approved and certified by a registered professional engineer.

(a) Exception:

- (i.) Wireless Internet towers shall comply with manufacturer's current design limitations, showing engineered requirements of each wireless internet tower. They shall be installed to meet the requirements and guidelines addressed by industry standards such as: ANSI/TIA/EIA-222-F and any revisions or updates addressed by industry standards. Plans may be required to be approved and certified by a registered professional engineer.

- (ii.) Wireless Internet tower plans not requiring approval or certification by a registered professional engineer shall comply with all other conditional use permit requirements under section 27.06(2).

History: (Amendment #2011-1A, Section 27.04 effective 06-22-11)

- (3) Installation of all towers and antennas shall comply with all applicable Federal, State, County and Local building and electrical codes.
- (4) For leased sites, written authorization for siting the wireless communication facilities from the property owner must be provided.
- (5) All towers and antennas must be adequately insured for injury and property damage, proof of which shall be provided with the application.
- (6) When applicable, proposals to erect new towers and antennas shall be accompanied by any required Federal, State, County or Local agency licenses or applications for such licenses.
- (7) No land may be subdivided for the purpose of providing space for a tower unless all lot size requirements for the applicable zoning district are met and subdivision approval is obtained. On a parcel that already has a principal use; the facilities shall be considered an accessory use. A pre-existing lot of record may be leased provided that all requirements of this ordinance can be met and a CUP is issued.

History: (Amendment #2011-1A, Section 27.04 effective 06-22-11)

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- (8) No application to place, construct or modify a telecommunications tower may be denied on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with applicable FCC emissions standards.
- (9) When it is technically and economically feasible to mount more than one antenna on a communication structure, that structure shall be placed and constructed so that it may be utilized as a common support structure for several antennas unless fully justified otherwise in the CUP application.

History: (Amendment #2011-1A, Section 27.04 effective 06-22-11)

27.05 Prohibitions

- (1) No tower shall be over 400 feet in height, (including antenna and lighting rods), unless specifically authorized through the variance procedure outlined in Attachment B.
History: (Amendment #2011-1A, Section 27.05 effective 06-22-11)
- (2) No tower or antenna may be installed on a parcel within a recorded subdivision created for residential purposes, without a variance.
- (3) No part of any tower or antenna shall extend across or over any right-of-way, public-street, highway, sidewalk or property line.
- (4) No temporary mobile communication site(s) requiring the erection of a tower over one hundred (100) feet in height are permitted except in the case of equipment failure, equipment testing, equipment replacement, or in the case of an emergency situation authorized by the Zoning Administrator. Use of a temporary mobile communication site(s) for testing purposes shall be limited to 72 hours, and the use of temporary mobile communication site(s) for equipment failure, equipment replacement, or in the case of emergency situations, shall be limited to 30 days, unless extended in writing by the Zoning Administrator.
- (5) No tower over 199 feet in height shall be located less than 100 feet plus the height of the tower and antenna from a principal residence that is not on the property on which the tower is located unless:
 - (a) Specifically authorized through the variance procedure outlined in Attachment B;
or
 - (b) The dwelling is on the parcel on which the tower is permitted to be located.
History: (Amendment #2011-1A, Section 27.05 effective 06-22-11)
- (6) Permanent platforms, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.
- (7) No tower shall be placed within 300 feet of a named river, stream, or within 300 feet of a named lake or flowage without a variance.
History: (Amendment #2011-1A, Section 27.05 effective 06-22-11)

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27.06 District Requirements

(1) *Permitted Uses*

- (a) Non-commercial, (private sector), Radio and Television receiving antennas and satellite dish antennas are allowed and shall not require a CUP under this chapter.
- (b) Pre-existing Towers and Antennas:
Any tower or antenna for which a permit has been issued, prior to the effective date of this ordinance, which may not be in full compliance will be permitted to continue. Pre-existing towers and antennas are required to meet the General Requirements set forth in Section 27.04(1)-(9).
- (c) The addition of antennas and associated equipment, of an additional provider, to an existing legal structure shall be considered co-location and not require an amendment to any CUP.
- (d) Damaged or destroyed by Natural Catastrophe, Accidental Fire or Vandalism:
Should any tower or antenna be damaged or destroyed by a natural catastrophe, accidental fire or vandalism it may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred and would not require an amendment to any CUP.

(2) *Conditional Use Permit Required*

- (a) All communication structures that do not meet the criteria set forth in Section 27.06 (1) of this chapter, Permitted Uses, may only be constructed, placed or modified in Vilas County with a Conditional Use Permit (CUP) approved by the Vilas County Zoning Committee and issued by the Vilas County Zoning Office. Issuance of a CUP under this section does not relieve an applicant of requirements to obtain any other permits required by Federal, State, County or local government to meet setback or other regulation requirements applicable in their regulation or ordinances. (See attachment A for Rules and Procedures for Issuance of a Conditional Use Permit, (CUP).
- (b) Any height modification to an existing tower requires the structure and its components to be brought into compliance with this ordinance.
- (c) Application Requirements. CUP applications for new wireless communication facilities shall include the following information:
 - (i) Compliance with Federal Regulations and Standards
Communication structures shall conform to all FCC, FAA, and OSHA regulations and standards. CUP applications submitted under this section shall certify that such requirements are met. If modifications are required to an existing communication structure as a result of new or changed regulations or standards, an amendment to any applicable existing CUP will be mandatory.

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- (ii.) Report stamped and signed by professional engineer which:
1. Certifies that a detailed engineering soils report has been completed and the design of the tower foundation is based on that report;
 2. Describes the tower design and height, including a foundation design and cross-section elevation;
 3. Certifies the facility's compliance with structural and electrical standards;
 4. Describes the tower's capacity, including the potential number and type of antennas that can be accommodated, and the type of equipment proposed to be used on the tower;
 5. Identifies the location of all sites that were considered as possible alternatives to the site being applied for;
 6. Describes lighting and/or painting to be placed on the tower;
 7. Certifies that the applicant or tenant has a valid license from the FCC to operate the proposed facilities, and identifies both the class of the license and the license holder; and
 8. Preliminary approval of a FAA Airport Safety Analysis;
 9. Give a written explanation of how each of the following 6 (six) standards of this chapter will be met by the proposed facilities.
 - i. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.
 - ii. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
 - iii. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - iv. That adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided.
 - v. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - vi. That the conditional use shall conform to all applicable regulations of the district in which it is located.

History: (Amendment #2011-1A, Section 27.06 effective 06-22-11)

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- (iii.) Facility plan – The application shall be accompanied by a facility plan that includes a written description of the type of consumer services each provider will provide to its customers, a list of all existing sites, existing sites to be upgraded or replaced, telecommunications sites within the County for these services provided by the provider. The facility plan shall also include a map that shows the geographic service areas of the existing and proposed telecommunications sites in the County and the nearest sites in adjacent counties.
- (d) Equipment Enclosures and Buildings. A CUP holder for a communication structure and any user co-locating shall be permitted to construct an equipment structure. Two or more users of the structure may build a single building for a use directly incidental and necessary to the use of the communication structure. The floor area is not to exceed 360 square feet and a height not to exceed 15 feet, per user sharing the building. Co-locators shall be subject to conditions established for the CUP for the structure. Larger buildings may be authorized in a CUP if adequately justified. Plumbing is not allowed in buildings unless fully justified in the CUP application. Issuance of a CUP does not obviate any applicable requirement for a location and occupancy permit or other permit required by this or any other County ordinance or Federal or State regulation.
- (e) Maintenance of towers and maintenance of related structures shall not require the issuance of an amendment to an existing CUP.
- (f) Notice to Nearby Property Owners
An applicant for a CUP to construct a new communication structure or to modify an existing structure shall notify the County Zoning Office and Town Clerk (requesting a letter of recommendation from the town), in which the structure is to be located, within ten working days of submission of the CUP application to the County. The notice shall include as a minimum the location and a clear description of the size, lighting, and appearance of the proposed new structure, or intended changes to such features of an existing structure, and a telephone number and/or address where additional information on the application can be obtained. The notice shall be sent by U.S. first class mail to the last known address of the owners of all parcels located in whole or in part within a radius equal to eight times the height of the structure above grade, the radius to be measured horizontally from the base of the structure but not to exceed a radius of ½ mile. The notice shall be sent to all other municipalities and counties located within one-mile radius of the site. The CUP applicant shall provide to Vilas County within five working days of submission of the application a complete listing of the names and addresses of all property owners who have been notified of the application as required under this section. The CUP applicant shall provide to Vilas County within 10 working days a letter of recommendation from the Town in which the structure is to be located.

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- (g) Denial of an application for a permit shall be in writing and shall be supported by substantial evidence in a written record prepared by the appropriate permit approval authority.
- (3) *Variance*
 - (a) The construction or placement of towers greater than 199 feet in height within a recorded subdivision shall not be permitted, without a variance.
 - (b) If this prohibition leads to areas that receive minimum acceptable service, an applicant may petition the Vilas County Board of Adjustment for a variance from this ordinance.

27.07 Performance Standards

- (1) *General*

Except as provided in this ordinance, all wireless communication facilities shall meet the dimensional standards of the zoning district in which they are located. Where the facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the respective zoning district. On a parcel of land that already has a principal use, the facilities shall be considered as an accessory use and a smaller area of land may be leased provided that all the requirements of this chapter can be met.
- (2) *Minimizing the Number of Sites*

The number and location of communication structures shall be minimized through co-location by mounting three (3) or more antennas on one structure or by minimizing the number of site locations when co-location is not possible by co-siting the communication structures. The cost of eliminating impediments to co-location shall be deemed reasonable if it does not exceed by 75 percent the cost of constructing a new structure on which to mount applicant's equipment.

History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)

 - (a) **(NEW STRUCTURES)** A new structure shall be designed, placed and constructed so it may be utilized by and a common support structure for a minimum of three (3) carriers and associated structures and equipment, unless fully justified otherwise in the CUP application.
 - (b) **(EXISTING STRUCTURES)** Subject to County approval, a communication structure may be situated on a commercial, industrial, professional, institutional, or governmental structure provided that such is installed and maintained in accord with applicable building codes, and complies with current Federal regulations and standards.

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- (c) (SUITABLE LOCATION) If a suitable location cannot be found for placement of an additional antenna and related equipment on an existing structure, any new structure shall be co-sited within close proximity, (e.g. adjacent properties). In such case, the owner of an existing structure shall allow placement of a new structure nearby on his site if space is available and at reasonable market cost. A CUP application to construct a new communication structure shall provide credible evidence as to why an existing structure cannot be used, or if to be located at a new site, why a site with an existing structure cannot be utilized for placement of an adjacent communication structure, to meet these requirements.
History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)
- (d) (NEW PROPOSED COMMUNICATION STRUCTURE) A new proposed communication structure shall be located not less than 100 feet plus the height of the tower and antenna from a principal residence that is not on the property on which the tower is located unless:
- (i.) Authorized through the variance procedure outlined in Attachment B.
 - (ii.) The dwelling is on the parcel on which the tower is permitted to be located; or
 - (iii.) Unless co-located on an existing structure for which a CUP for a communication structure has been issued.
- History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)*
- (e) (DISTANCE FROM LOT LINES) Wireless Communication structures shall be the minimum distance from all lot lines that they are in height, except when certification is provided by a manufacturer that the tower is designed to collapse within 50 percent of the height of the tower. With certification provided, tower shall be the minimum distance of half the height of the tower from all lot lines. A conditional use permit shall be required.
History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)
- (f) (NEW SITE CREDIBLE EVIDENCE) No CUP application for the placement or construction of a new communication structure at a new site shall be approved unless the applicant presents to Vilas County credible evidence of all the following:
- (i.) No existing communication structure is located within (2) two miles of the area in which the applicant's equipment must, for technical reasons, be located. The technical reasons that pertain shall be fully explained and justified in the CUP application;
 - (ii.) No existing communication structure within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied. This situation shall be fully explained in the CUP application;
 - (iii.) No existing communication structure within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment and the deficiency in structural strength cannot be remedied. The circumstances shall be fully explained in the CUP application;

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- (iv.) The applicant's equipment would cause uncorrectable electromagnetic interference with equipment on the existing permitted communication structures and equipment within the area in which the applicant's equipment must be located, or the equipment on the existing communication structure(s) would cause uncorrectable interference with the applicant's equipment and the interference from whatever source, cannot be eliminated, or the applicant's equipment would cause uncorrectable interference with other legally permitted and properly operating electronic equipment in the vicinity;
- (v.) The fees, costs or contractual provisions required by the owner of the existing communication structure or site in order to co-locate on an existing communication structure or locate a new structure adjacent to the existing structure are unreasonable relative to industry norms; and
- (vi.) The applicant demonstrates that there are other factors that render existing communication structures unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new communication structure, (e.g. an existing municipally owned communication tower, whose primary purpose is to provide essential police, fire, and other emergency communications and services for the protection and safety of the public).

History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)

(g) (APPLICANT, COUNTY AND LOCAL GOVERNMENT CO-LOCATION CO-OPERATION)

An applicant agrees to co-operate with County and Local government agencies to provide municipal space upon any new tower or upon any tower assuming space is available or remains available, upon request of the County or Local government agencies, at reasonable fair market rates.

History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)

(3) *Electromagnetic Interference*

- (a) Communication structures shall comply with all applicable federal and state regulations and standards to preclude electromagnetic interference with existing RF receiving equipment, provided that existing equipment which might be subject to interference is permitted, of proper design, and in good operating condition.

(4) *Site Concerns*

- (a) (SIGNS) No advertising material or signage other than safety and security warning or equipment identification information shall be allowed on any communication structure. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamer, pennant, ribbon, spinner or waving, fluttering or revolving device, but not including weather devices. A sign, with a maximum of four (4) square feet, identifying the owner(s) and operator(s) of the site and equipment shall be placed at the entrance to the site and/or entrance to the security compound in accordance with sign regulations.

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- (b) **(LIGHTING)** Communication structures shall not be artificially illuminated, have reflectors, flashers, daytime strobes, steady night time red lights unless required by Federal or State Regulation. All lighting must be shielded causing light rays to be cast upward, resulting in minimum visual disturbance to the surrounding views from the ground within a radius equal to five times the structure height above grade. Strobe lights shall not be operated at night if not required by Federal regulation. However, motion detector and/or photocell controlled security lighting shall be permitted to illuminate the compound, provided that such light fixtures shall be no higher than 20 feet above grade and shielded to direct light rays downward to keep light within the boundaries of the site, resulting in minimum visual disturbance. When lighting requirements cannot be met for technical reasons, the CUP application shall provide full justification.
- (c) **(AESTHETICS)** Communication structures and associated equipment enclosures and buildings shall be constructed and maintained using materials, colors, textures, screening, and landscaping that blend the facilities with the surrounding landscape and in a manner that will minimize degradation of the environment. They shall be, where technically feasible and when permitted by Federal regulation, finished in a color that is visually neutral to the background. Where an antenna is installed on a communication structure other than a tower, the antenna and associated equipment shall be of a color so as to be visually unobtrusive. When that is not possible for technical reasons, the CUP application shall provide full justification.
- (d) **(SAFETY)**
- (i.) Ground mounted Accessory Equipment and Support Structures shall be secured and enclosed with fence not less than six (6) feet in height as deemed appropriate by the Zoning Committee or Zoning Administrator.
- (ii.) The Zoning Committee or Zoning Administrator may waive the requirement of Subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location, based on site & tower characteristics.

History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)

The required fencing shall be installed within 30 days of completion of construction of the communication structure, or if a winter installation is permitted, as soon as the frost leaves the ground. During a winter installation a temporary fence and reflective devices will be in place for safety. Fence design, materials and colors shall reflect the character of the surrounding area.

- (1.) Exemption: The height of the fence is exempt from the requirements of the Vilas County General Ordinance 5.12 Fences, (which would require an additional CUP), and will be incorporated in with the Wireless Communication CUP.

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(e) (**LANDSCAPING**) A native vegetative buffer shall be provided to effectively screen tower compounds and guy anchor points from public view and from adjacent properties. The minimum buffer shall consist of a vegetated strip surrounding the fenced area, excepting access gates, and providing at least 75 percent opacity up to six feet in height during a normal July growing season, that condition to be achieved within two years of construction of the fence. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced as approved by the County. Existing mature tree growth and natural landforms shall be preserved, unless there is full justification in the CUP why removal is necessary. In some cases, such as large, wooded sites, natural growth around the property perimeter may be sufficient buffer.

(5) *Multiple Uses on a Single Parcel or Lot*

Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site.

History: (Amendment #2011-1A, Section 27.07 effective 06-22-11)

27.08 Compliance with Conditions of CUP

Upon written inquiry by the County, the recipient of a CUP under this section shall have the burden of presenting credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the CUP. Failure to establish compliance with all conditions placed upon the CUP shall be grounds for revocation of the permit. In any event, where a dispute arises under this ordinance involving an applicant for a CUP and the holder of a CUP hereunder, the County may allocate consulting costs and expenses between the applicant and permit holder in a competitively neutral manner.

27.09 Cessation and Termination of Operation under a CUP

(1) Upon permanent termination of the use of the communication structure all equipment-associated structure(s) shall be removed from the site within 12 months of cessation of operation or use, unless the Zoning Administrator provides a written exemption. After the facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within 3 feet of ground level. If removal and/or restoration are not completed, Vilas County is authorized to complete the removal and site restoration and the cost shall be assessed against the property as a special assessment. Towers permitted with a CUP shall remain as long as the conditions in the permit are met. If conditions are not met the permit will be revoked. Within 30 days after the date on which any operation conducted under an approved CUP permanently ceases, the permit holder shall provide the County with written notice of the cessation of such use. However, the holder of a CUP shall continue to be responsible for maintenance and security of the structure after permanent cessation of operation and until the structure is properly removed.

27.10 Transferability

All permits issued under this chapter shall be transferable, and all subsequent holders of such permits shall be subject to all applicable requirements of this chapter and any permit conditions that may exist. Written notice shall be made to the Zoning Administrator within 30 days of such transfer.

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27.11 Appeals

Appeals to the Vilas County Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of Vilas County affected by any decision of the Zoning Administrator or Zoning Committee as provided for in Article X of the Vilas County General Zoning Ordinance. (See Attachment B for Article X of the Vilas County General Zoning Ordinance, Board of Adjustment.)

27.12 Severability

If a court of competent jurisdiction adjudges any portion of this chapter unconstitutional or invalid, the remainder of this chapter shall not be affected.

27.13 Enforcement and Penalties

(1) *Penalty*

Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this Chapter shall be subject to a forfeiture of not less than \$250.00 nor more than \$1000.00 for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and as such, forfeitures shall apply accordingly. The Zoning Administrator shall refer violations to the Corporation Counsel who shall prosecute violations.

(2) *Injunction*

Any use or action, which violates the provisions of this Chapter, shall be subject to a court injunction prohibiting such violation.

(3) *Responsibility for Compliance*

It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this Chapter. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this Chapter will be notified in writing of such violation by the County Zoning Administrator, Assistant Zoning Administrator or his designated Deputy Zoning Administrator. Each day a violation exists shall constitute a distinct and separate violation of this Chapter and, as such, forfeitures shall apply accordingly. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Section 59.69(11), Wisconsin Statutes.

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(4) *Suspension of Permit*

Whenever the Zoning Administrator, Assistant Zoning Administrator or Deputy Zoning Administrator, determines that there are reasonable grounds for believing that there is a violation of any provision of this Chapter, the Zoning Administrator, Assistant Zoning Administrator or Deputy Zoning Administrator shall give notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30-day period, an extension may be granted if reasons of hardship prevail and can be verified. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin.

(5) *Emergency Conditions*

Whenever the Zoning Administrator or Assistant Zoning Administrator finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Administrator or Assistant Zoning Administrator may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The Administrator or Assistant Zoning Administrator shall notify the Chairperson of the Zoning Committee within 24 hours of such situations. Notwithstanding any other provisions of this Ordinance such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Adjustment.

ATTACHMENT A

VILAS COUNTY GENERAL ZONING ORDINANCE

Article IX

9.4 RULES AND PROCEDURES FOR ISSUANCE OF CONDITIONAL USE PERMITS:

- (A) Initiation of Conditional Use Permit Application: Any person, firm, corporation, organization having a freehold interest, a possessory interest entitled to exclusive possession, or a contractual interest, which is specifically enforceable in the land for which a CUP is sought, may file an application to use such land for one or more of the conditional uses provided for in this Ordinance provided that the use is one which is conditionally permitted by the Zoning Ordinance in the zoning district where the parcel is located.
- (B) Application for Conditional Use Permit: An application for a CUP shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and other information as may be prescribed by the Zoning Administrator or the Zoning Committee.
- (C) Hearing an Application: Upon receipt of the application the Zoning Committee shall hold a public hearing on each application for CUP at such time and place as shall be established by the Zoning Committee. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Zoning Committee shall, by rule, prescribe from time to time. Notice of public hearing shall be given by publication as a Class 2 notice as provided for in section 985 of the Wisconsin Statutes.
- (D) Standards: A Conditional Use Permit shall not be granted by the Zoning Committee unless such Committee shall find that all of the following conditions are present:
- (1) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

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- (6) That the conditional use shall conform to all applicable regulations of the district in which it is located.
- (E) Conditions and Guarantees: Prior to the granting of a CUP, the Zoning Committee may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary to promote the public health, safety, and general welfare of the community, and to secure compliance with the standards and requirements specified in subsection 9.4 D above. In all cases in which conditional uses are granted; the committee shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- (F) Appeal from Action by Zoning Committee: An appeal from the decisions of the Zoning Committee may be taken to the Board of Adjustment by any person aggrieved or by any officer; department, board or bureau of Vilas County affected by a decision of the office of the Zoning Administrator or designated deputies. Such appeal must specify the grounds thereof in respect to the findings of the Zoning Committee and must be filed with the Board of Adjustment within 30 days of the final action of the Zoning Committee. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. The action of the Zoning Committee shall be deemed just and equitable unless the Board of Adjustment by a favorable vote reverses or modifies the action of the Zoning Committee.
- (G) Effect of Denial of Application: No application for a Conditional Use which has been denied wholly or in part by the Zoning Committee shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Committee. In any case, where a CUP, issued under this Ordinance, has not been instituted or construction begun within one year of the date of approval shall be null and void without further action by the Zoning Committee.
- (H) Revocation of a Conditional Use Permit: If the Zoning Committee finds that the standards and the conditions stipulated in a CUP are not being complied with, the Committee, after a public hearing, may revoke the CUP. Appeals from the action of the Zoning Committee may be as provided above in Subsection 9.4, F.
- (I) Ceased Conditional Uses: A Conditional Use Permit for any use which has been ceased for a period of one year will be deemed to have been terminated and any future use shall be in conformity with these Ordinances

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ATTACHMENT B

VILAS COUNTY GENERAL ZONING ORDINANCE

ARTICLE X:

BOARD OF ADJUSTMENT

Introduction and Explanation: This Article describes the Board of Adjustment. This five (5) member Board has powers directly granted to it by the State Legislature. The statutory duties of the Board are to hear and decide appeals from decisions of the Administrator or Deputies and to consider variances from the strict requirements of the Ordinances where a unique hardship exists and where a waiver of the strict rule of the Ordinance can be granted without destroying the purpose and intent of the Ordinance.

10.1 CREATION OF THE BOARD OF ADJUSTMENT:

A Board of Adjustment is hereby created as authorized by the applicable Wisconsin Statute, section 59.694. The Board of Adjustment shall consist of 5 members who shall be appointed by the Vilas County Board Chairperson and approved by the County Board for terms of three years. The Board of Adjustment may choose its own chairperson. The County Board may employ an assistant, who may act as office manager, provide supplies and office space to assist them in the administration of their duties, and may pay the actual and necessary expenses incurred by the Board in the performance of its duties. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

10.2 JURISDICTION AND AUTHORITY:

A Board of Adjustment shall have the following powers:

- (A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of s. 59.69 or of any Ordinance adopted pursuant thereto.
- (B) To hear and decide appeals of Conditional Use decisions by the Zoning Committee.
- (C) To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

10.3 MEETINGS AND RULES:

Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the Chairperson's absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of said Board shall be open to the public. The Board's secretary shall keep a written record of the outcome of the vote of each member on each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney. The Board of Adjustment shall adopt further rules as necessary to carry into effect the regulations of the County Board which are not in conflict with the Wisconsin Statutes.

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10.4 PROCEDURES FOR HEARING APPEALS:

- (A) Filing Appeals: Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of Vilas County affected by a decision of the office of the Zoning Administrator or his designated Deputies. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the office of the assistant to the Board of Adjustment a notice of appeal specifying the grounds thereof. Upon filing of an appeal, the Zoning Administrator shall transmit to the Board all of the paper constituting the record upon which the action appealed from was taken.
- (B) Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment that such a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of law.
- (C) Notice of Hearing: The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 Notice as provided for in section 985 of the Wisconsin Statutes. Notice of time, place and purpose of such hearing shall also be given to the applicant or appellant, Zoning Administrator, Town Clerk and the County Board Supervisor for the district in which the property is located. If the appeal involves area subject to the Shoreland Ordinance or within a 100-year flood plain, notice of the public hearing and a copy of the Board's decision shall be provided to the Wisconsin Department of Natural Resources district office.
- (D) Findings of the Board: The Board of Adjustment, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the majority vote, may reverse, affirm, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. All decisions and findings of the Board of Adjustment on appeal shall in all instances be final administrative determination and shall thereafter be only subject to review by a court of law upon the filing of a writ of certiorari within 30 days of the Board's decision.

10.5 PROCEDURE FOR HEARING VARIANCE REQUESTS:

- (A) Application for Variance: An application for variance may be filed by a property owner or owner's agent with the Board of Adjustment, on forms provided by the County.
- (B) Notice of Hearing: The Board of Adjustment shall fix a reasonable time for hearing variance requests. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 Notice as provided in section 985 of the Wisconsin Statutes. Notice of time, place and purpose of such hearing shall also be given to the applicant or appellant, Zoning Administrator, Town Clerk and the County Board Supervisor for the district in which the property is located. If the variance request involves area subject to the Shoreland Ordinance or within 100-year flood plain notice of the public hearing and of the Board's decision shall be provided to the Wisconsin Department of Natural Resources district office.

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- (C) Findings of the Board: The Board of Adjustment, upon its findings, shall render a decision on the variance request within a reasonable time. A Board decision requires a majority vote. All decisions and findings of the Board of Adjustment on variance requests shall in all instances be final administrative determinations and shall thereafter be only subject to review by a court of law.
- (D) Standards for Variances: The Board of Adjustment may authorize such variances from the terms of the Ordinance to dimensional standards which will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. The Board of Adjustment shall use the following guidelines in interpreting this standard:
- (1) The particular physical surroundings, shape or topographic conditions of the specific property involved could result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out.
 - (2) The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification.
 - (3) The purpose of the variance is not based exclusively on a desire for economic or material gain by the applicant or owner.
 - (4) The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.
 - (5) The granting of a variance will not be detrimental to the welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire or otherwise endanger the public health, safety and welfare or substantially diminish or impair property value in the neighborhood.
 - (7) No variance shall have the effect of allowing, in any district, uses not permitted in that district. The Board of Adjustment may impose such conditions and restrictions upon the premises benefitted by the variance as may be necessary to comply with the above standards and to better carry out the general intent of this Ordinance.
- (E) Length of Validity: No order of the Board of Adjustment granting such variance shall be valid for longer than one year from the date of such order unless a Zoning Permit is obtained within such period and the erection or alteration of the building is started or the use commenced.