

TOWN OF BROTHERTOWN  
CALUMET COUNTY, WISCONSIN

ORDINANCE NO. 2000- 3

**AN ORDINANCE TO AMEND THE TOWN OF BROTHERTOWN ZONING  
ORDINANCE RELATING TO TELECOMMUNICATION FACILITIES**

The Town Board of the Town of Brothertown, Calumet County, Wisconsin, pursuant to Section 14.031 of the Town Ordinances and Section 62.23(7), Wis. Stat., do ordain as follows:

**SECTION 1.** The following sections of the Town of Brothertown Zoning Ordinance are hereby repealed:

Section 7.011(c);  
Section 7.021(d);  
Section 7.031(c);  
Section 7.041(k).

**SECTION 2.** The following sections of the Town of Brothertown Zoning Ordinance are hereby created as follows:

Section 7.013(s), Telecommunication Facilities;  
Section 7.043(bb), Telecommunication Facilities;  
Section 7.053(v), Telecommunication Facilities.

**SECTION 3.** Section 11.07, Small Engine or Motor and Associated Equipment Sales, or Service, is hereby renumbered Section 11.08.

**SECTION 4.** Article XI, CONDITIONAL USE STANDARDS, is amended to create Section 11.07, Telecommunication Facilities. The provisions of Section 11.07 of the Calumet County Code of Ordinances, as amended, relating to telecommunication facilities and the conditional use standards therefor, and consisting of subsections 11.071 through 11.0792, inclusive, are hereby incorporated herein by reference as if fully set forth at length. A copy of said Section 11.07 of the

Calumet County Code shall be attached to this ordinance as Exhibit A and remain on file with the Town Clerk. Notwithstanding anything to the contrary, unless the context dictates otherwise, all references in Section 11.07 to "Calumet County" shall mean "Town of Brothertown;" all references to the "Calumet County Planning and Zoning Committee" shall mean the "Town of Brothertown Planning and Zoning Committee;" all references to an officer or employee of Calumet County shall mean the comparable officer or employee of the Town of Brothertown and if there is no comparable employee or officer, then it shall mean the Town Chairperson.

**SECTION 5.** In the event any portion of this ordinance is found to be illegal, unconstitutional or unenforceable by a court of competent jurisdiction, such finding shall not affect the validity of the remaining portions of this ordinance which shall remain in full force and effect.

Adopted this 9 day of Aug., 2000.

ATTEST:

TOWN OF BROTHERTOWN TOWN BOARD

By: Darlene Steffes  
Darlene Steffes, Clerk

By: Jeanold Puetz  
Jeanold Puetz, Chairperson

ORDINANCE TO AMEND ORDINANCE NO. 66 (COUNTY ZONING ORDINANCE)  
RELATING TO TELECOMMUNICATION FACILITIES

The Board of Supervisors of Calumet County, pursuant to Section 59.69 (5) of Wisconsin Statutes, does hereby ordain as follows:

1. That the Calumet County Zoning Ordinance, as originally adopted by Ordinance No. 66 and as amended, is now amended to include a new section entitled, "Telecommunication Facilities" under "ARTICLE XI – CONDITIONAL USE STANDARDS" to include:

Section 11.07 Telecommunication Facilities

11.071 Purpose and Intent. The purpose and intent of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication towers, antennas, and related facilities. The regulations are designed to protect and promote public health, safety, community welfare, aesthetic quality of Calumet County, and encourage managed development of telecommunication infrastructure. The section shall:

- a. Provide a process for obtaining necessary permits for telecommunication facilities, while at the same time protecting the interests of Calumet County citizens.
- b. Ensure that a non-discriminatory, competitive, and broad range of telecommunication services and high quality telecommunications are provided to serve the community.
- c. Minimize conflicting uses of the land and adverse visual effects.
- d. Protect environmentally sensitive areas of Calumet County by regulating the location, design, and operation of telecommunication towers, antennas, and related facilities.
- e. Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to locate three or more providers.

11.072 Definitions

**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).

**Co-Location.** The location of more than one antenna or set of antennas on the same tower structure.

**Height.** The distance measured from the original grade at the base of the tower to the highest point of the tower.

**Lattice (Self-Support) Tower.** A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

**Monopole.** A telecommunication 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.

**Satellite Dish.** 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 and/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.

**Telecommunication Facility.** A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunication signals, excluding those facilities exempted under Section 11.073.

**Tower.** Any 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.

**Tower, Camouflaged.** Any telecommunication tower that, due to design or appearance, hides, obscures, or conceals the presence of the tower and antenna.

**Tower, Guyed.** A telecommunication 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.

**Tower Accessory Structure.** Any structure located at the base of a tower for housing receiving or transmitting equipment.

11.073 Exempt From Review. This Ordinance shall not govern the installation and/or use of:

- a. Television antennas, satellite dishes, and receive-only antennas, provided that they are for personal use of the land owner, the primary use of the property is not a "telecommunication facility", and the antenna use is accessory to the primary use of the property.
- b. Amateur radio antenna and their supporting towers, poles, and masts that are owned and/or operated by a federally-licensed amateur radio operator or is used exclusively for receive-only antennas.
- c. Mobile services providing public information coverage of news events of a temporary or emergency nature.

- d. Any other devices not mentioned above that are exempt according to Section 704 of the Telecommunications Act of 1996.

11.074 General Requirements. These provisions shall apply to all telecommunications facilities located within the County.

- a. All telecommunication facilities shall comply with Federal Communication Commission (FCC), Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), and Federal Aviation Administration (FAA) rules and regulations.
- b. All telecommunication facilities shall comply with the manufacturer's specifications as it relates to design and installation.
- c. All telecommunication facilities shall comply with all applicable state and local building and electrical codes.
- d. The landowner shall provide written authorization for siting the telecommunication facilities on a leased property.
- e. All towers and antennas must be adequately insured for injury and property damage.
- f. Any required federal, state, or local agency licenses shall be provided prior to the issuance of the building permit for proposals to erect new telecommunication facilities.
- g. No sign, other than warning, permit number, or equipment information, shall be affixed to any telecommunication facility.
- h. No telecommunication facility shall be artificially illuminated or have strobe lights attached to it unless required by FCC or FAA regulations. Light, if required, shall be shielded from the ground.
- i. Camouflaged telecommunication facilities are encouraged and may be required in historical, environmental, or other sensitive areas as determined by the applicable Calumet County Planning and Zoning authority.
- j. All telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted that a guyed tower is required.
- k. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety or fire protection telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the County.
- l. A bond with a corporate surety, duly licensed in the State of Wisconsin, in the amount of twenty thousand dollars (\$20,000) to assure that the applicant, its representatives, its agents, and its assigns will comply with all the terms, conditions, provisions, requirements, and specifications contained in this ordinance, including abandonment.

11.075 Prohibited Areas for Telecommunication Facilities.

a. No telecommunication facility may be located in the following areas:

1. Floodplains
2. Wetlands
3. Shorelands
4. Residential-zoned districts
5. Conservancy-zoned districts
6. Recreation-zoned districts

b. Notwithstanding the above, the Zoning Administrator shall issue a land use (building) permit in all residential, recreational, agricultural, commercial, and industrial zoning districts provided:

1. The applicant requests to attach an antenna to an existing tower, structure, or utility pole, and,
2. The antenna does not extend more than twenty (20) feet above the highest point of an existing tower, structure, or pole.

11.0751 Zoning Districts Permitting Telecommunication Facilities with Conditional Use Permit Review and Approval:

a. Telecommunication facilities may be allowed in the following zoning districts, provided they meet the requirements of the district and the requirements of this chapter:

1. All agricultural-zoned districts
2. All commercial-zoned districts
3. All industrial-zoned districts

11.076 Conditional Use Permit Requirements. All applications for conditional use permits shall include the following information:

a. A report from a registered professional engineer and/or other professionals which:

1. Describes the facility's height and design, including a cross-section and elevation;
2. Certifies the facility's compliance with electrical standards and structural standards that allow it to accommodate at least three (3) antennas;
3. Describes the tower's capacity, including the potential number and type of antennas that it can accommodate;
4. Describes the lighting to be placed on the facility if required by the FCC or FAA;
5. Certifies that the facility will not cause destructive interference with previously established public safety communications system;

6. A plat of survey showing the parcel boundaries and a legal description, support facilities, location, access, landscaping and fencing;
  7. Federal Communication Commission (FCC) license and registration numbers, if applicable. Also copies of Findings of No Significant Impacts statement from FCC or Environmental Impact Study, if applicable;
  8. Proof of liability coverage that is satisfactory to the Planning and Zoning Committee;
  9. An alternatives analysis shall be prepared by the applicant which identifies all reasonable, technically feasible alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the County. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. The County may require independent verification of this analysis at the applicant's expense.
  10. A tabular and map inventory of all of the applicant's existing telecommunication towers that are located within Calumet County and includes all of the applicant's towers within fifteen hundred (1,500) feet of the County boundary. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunication towers and the ability of the tower or antenna structure to accommodate additional co-location antennas.
- b. Each application shall include a facility plan. The County will maintain an inventory of all existing and proposed telecommunication facility installations. All applicants shall provide the following information in each plan:
1. Written description of the type of consumer services each applicant will provide to its customers (cellular, PCS, SMR, ESMR, paging, or other anticipated telecommunication services), the carrier provider, applicant, landowner, and service provider.
  2. Provide a list of the applicant's existing telecommunication sites, existing sites to be upgraded or replaced, and proposed facility sites as they are determined and requested within the County.
  3. Provide a map of the County which shows the geographic service areas for the provider of the existing and proposed facility sites as they are determined and requested by the provider.
  4. The name, address, and telephone number of the officer, agent, and/or employee responsible for the accuracy of the application.
- c. Written acknowledgement by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the building permit or conditional use permit.

d. Additional Information and Analysis.

1. The Code Administrator or the Planning and Zoning Committee may, at his/her or its discretion, require visual impact demonstrations, including mock-ups and/or photo montages, screening and painting plans, network maps, alternative site analysis, lists of other nearby wireless telecommunication facilities, or facility design alternatives for the proposed facilities.
2. The Code Administrator or Planning and Zoning Committee may employ, on behalf of the County, an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the costs of such review and/or independent analysis.

11.077 Performance Standards

- a. General. Except as provided in this subchapter, all telecommunication 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 an accessory use and a smaller area of land may be leased provided that all requirements of this ordinance can be met.
- b. Setbacks and Separation. In general,
  1. The tower shall be set back from the nearest property line a distance equal to the height of the facility. This setback may be reduced to one-half the height of the facility if the applicant submits an engineering report from a registered professional engineer that certifies that the facility is designed and engineered to collapse upon failure within the distance from the facility to the property line. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.)
  2. The tower shall not be located within five hundred (500) feet of any residence other than the applicant's residence.
  3. Towers shall be set back from the nearest road right-of-way a distance equal to the height of the tower or the setbacks established in Section 8.02 of this Ordinance, whichever is greater.
  4. All guy wire anchors shall be at least twenty-five (25) feet from all property lines except on leased parcels.
- c. Co-Location/Sharing of Facilities.
  1. No new facility shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing facility tower or structure can accommodate the applicant's proposed antenna. Supporting evidence may consist of any of the following conditions:



- A. No existing facility towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
  - B. Existing facility towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - C. Existing facility towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - D. The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing facility tower or structure would cause interference with the applicant's proposed system.
  - E. The fees, cost, or contractual provisions required by the owner to share an existing facility tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are considered unreasonable.
  - F. The applicant demonstrates that there are other limiting factors that render existing facility towers or structures unsuitable.
2. New facilities shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is one hundred thirty (130) feet or more in height. Towers must also be designed to allow for future rearrangement of antennas on the tower and accept antennas mounted at different heights.
- d. Screening and Landscaping. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped with a buffer of plant materials that effectively screens the view of all tower accessory structures, equipment, and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the area where tower accessory structures and equipment are located at ground level. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the governing authority. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible.
- e. Security Fencing and Lighting.
1. All towers shall be reasonably protected against unauthorized access. The bottom of the tower shall be enclosed with a minimum of an 8-foot high fence with a locked gate.
  2. Security lighting for on-ground facilities and equipment is permitted as long as it is down-shielded to keep light within the boundaries of the site.
- f. Color and Materials.
1. All towers and antennas shall use building materials, colors, textures, screening, and landscaping that blends the facilities with the surrounding natural features to the greatest

extent possible. The tower shall be painted light blue or other color that is demonstrated to minimize visibility. Galvanized towers may be permitted.

2. All metal towers shall be constructed or treated with corrosion resistant material.

- g. **Parking and Access.** Adequate parking spaces shall be provided on each site so that parking on public road rights-of-way will not be necessary. Additional parking may be required by the governing authority if the minimum parking proves to be inadequate. Access must be provided by an all-weather driveway, and access must be approved by the applicable highway offices.
- h. **Height.** The applicant shall identify the height of the proposed tower and provide justification for the height chosen. The Committee can modify the height after review of the application. Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce the visual impact without compromising their function.

#### 11.078 Revocation.

Revocation. Grounds for revocation of the conditional use permit shall be limited to one of the following findings as determined by the Calumet County Planning and Zoning Committee:

- a. The owner of such site, service provider, and/or tower owner fails to comply with the requirements of this Ordinance as it existed at the time of the issuance of the conditional use permit;
- b. The permittee has failed to comply with the conditions of approval imposed;
- c. The facility has not been properly maintained.
- d. A permit shall expire twelve (12) months after issuance if the tower and/or supporting facilities have not been erected. An extension of time may be granted by the Planning and Zoning Committee upon request.
- e. **Revocation Process:**
  - 1. If one of the following findings exist, Planning Department staff shall report to the County Planning and Zoning Committee of the non-compliance. The owner of the site, service provider, and/or tower owner shall be notified of the non-compliance and given an opportunity to present their position to the Committee or a minimum of 30 days to comply.
  - 2. If compliance is not received within 30 days, the Committee shall hold a hearing to review the non-compliance. Notice shall be given, testimony received, and a written decision made by the Committee based on substantial evidence.

#### 11.079 Abandonment.

The owner of a telecommunication facility under this Ordinance shall notify the County Planning and Zoning Department when the facility is no longer in operation. All obsolete, damaged, unused,

or abandoned towers and accompanying accessory facilities shall be removed within twelve (12) months of the cessation of operations unless a time extension is approved by the Calumet County Planning and Zoning Department. 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 five (5) feet of ground level. If removal and/or restoration is not completed, the Zoning Administrator may order removal utilizing a performance bond which shall be provided by the telecommunication provider to the amount of \$20,000. Calumet County will be named as obligee in the bond and must approve the bonding company.

11.0791 Appeals Procedure. Appeals may be taken by aggrieved party as provided under Section 13.03.

11.0792 Penalty. Penalties for violations are provided under Section 14.02.