

## **COVER PAGE FOR TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES**

- 7.01 Purpose and Intent.
- 7.02 Definitions.
- 7.03 Exempt from County Review.
- 7.04 Areas Permitting Telecommunication Facility Location with Special Exception Approval.
- 7.05 Areas Limiting Telecommunication Facility Location.
- 7.06 Areas Prohibiting Telecommunication Facility Location.
- 7.07 Special Exception Application.
- 7.08 Annual Information Report.
- 7.09 Removal/Security for Removal.
- 7.10 Pre-existing Telecommunication Towers.
- 7.11 Compliance.
- 7.12 Structural, Design and Environmental Standards.
- 7.13 Separation and Setback Requirements.
- 7.14 Zoning Permits.
- 7.15 Appeal Procedures.
- 7.16 Applicability.
- 7.17 Severability.

**CHAPTER 7**  
**TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES**

**7.01 PURPOSE AND INTENT.**

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication towers, antennas and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the Town of New Denmark, as set forth within the goals, objectives and policies of the Town of New Denmark Zoning Ordinance and the Brown County Zoning Ordinance, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunications facilities.

It is intended that the Town shall apply these regulations to accomplish the following:

- A. Minimize adverse visual effects of telecommunication towers, antennas and related facilities through design and siting standards.
- B. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Brown County's police, fire and emergency response network.
- C. Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the interests of the Brown County citizens.
- D. Protect environmentally sensitive areas of Brown 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.

Furthermore, this Ordinance is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additional, it is not intended to regulate satellite dishes/antennas whose regulation is prohibited by § 59.69(4d) Wis. Stats., or its successor sections, of the Wisconsin Statutes as amended from time to time or as preempted by Federal law.

**7.02 DEFINITIONS.**

For the purpose of Chapter 7, the following terms and phrases shall have the meaning ascribed to them in this section:

Alternative Support Structure: Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities.

Antenna: 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: Any antennas, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

Antenna Ground Mounted: Any antenna with its base placed directly on the ground.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

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

Guyed Tower: 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: 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, protection devices (e.g. lightning rods) and lighting.

Lattice Tower: A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

Monopole: A telecommunication tower of a single pole design.

Navigable Stream or Lake: As designated on the United States Geological Survey (USGS) map and/or the Brown County Zoning maps.

Non-Conforming: Any pre-existing telecommunications facility that was in existence prior to the adoption of this Ordinance and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date of this Ordinance. This definition shall only apply to this specific Ordinance and shall not apply to other Brown County Zoning Ordinances.

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.

Platform: A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

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 telecommunications signals, excluding those facilities exempted under Section 7.03.

Telecommunication Facility Co-located: A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices, owned or used by more than one public or private entity.

Telecommunication Support Facility: The telecommunication equipment buildings and equipment cabinets.

Telecommunications Tower: 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 7.03.

Utility Pole Mounted Antenna: An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure approved by the Brown County Zoning Department.

### **7.03 EXEMPT FROM COUNTY REVIEW.**

The following shall be permitted without Town approvals:

- A. The use of all television antenna, satellite dishes and receive only antennas, provided that the primary use of the property is not a telecommunication facility and that the antenna use is accessory to the primary use of the property.
- B. Amateur Radio. This Ordinance shall not govern the installation of any antenna and their supporting towers, poles and masts that is 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. Free standing (Ground Mounted Antenna) antennas (not supported on or attached to a building) and their supporting towers, poles or masts and their equipment buildings, three hundred fifty (350) square feet or less in size, may be installed without a zoning permit when the overall height of the antennas and their supporting structures do not exceed a height of forty-five (45) feet above the original grade at the site of the installation. Antennas, their supporting towers,

poles or masts, and their equipment building to be located in the A-1 zoning district, are subject to meeting the requirements of Sec. 91.01 (10) Wis. Stats.

E. Antennas installed on, or attached to, any existing building (Building Mounted Antenna), and buildings three hundred fifty (350) square feet or less in size, when the height of the existing telecommunication tower, or alternative support structure and their equipment antenna and it's supporting tower, pole or mast is thirty (30) feet or less above the highest part of the building or alternative support structure to which it is attached. Antennas, installed on, or attached to, any existing building, an existing telecommunication tower or alternative support structure and their equipment buildings to be located in the A-1 zoning district are subject to meeting the requirements of Sec. 91.01(10) Wis. Stats.

F. Utility Pole Mounted Antennas, if the height of the antenna is thirty (30) feet or less above the highest part of the utility pole.

**7.04 AREAS PERMITTING TELECOMMUNICATION FACILITY LOCATION WITH SPECIAL EXCEPTION APPROVAL.**

Telecommunications facilities may be permitted in the following zoning districts, subject to Special Exception review and approval by the Town of New Denmark Zoning Board of Appeals and, in compliance with Sections 7.06 and 7.12, and all other applicable section of this Ordinance:

A. A-1, Exclusive Agricultural District, subject to meeting the requirements of Sec. 91.01(10) Wis. Stats.

1. The activity will not convert land that has been devoted primarily to agricultural use.

2. The activity will not limit the surrounding land's potential for agricultural use.

3. The activity will not conflict with agricultural operations on the land subject to a farmland preservation agreement.

4. The activity will not conflict with agricultural operations on other properties.

B. A-2, Agricultural District.

C. B, Business District.

D. I, Industrial District.

E. MR, Mineral Reservation District.

F. C-2, Upland Conservancy District.

**7.05 AREAS LIMITING TELECOMMUNICATION FACILITY LOCATION.**

Telecommunication facilities may be permitted, subject to Special Exception review and approval by the Town of New Denmark Zoning Board of Appeals as identified in Section 7.04 but are subject to review and approval of the Federal Aviation Administration (FAA), Wisconsin State Bureau of Aeronautics and other appropriate agencies, if applicable.

- A. Two (2) mile radius from heliports.
- B. One (1) mile radius from private airport runway(s).
- C. Three (3) mile radius from public use airport runway(s).

**7.06 AREAS PROHIBITING TELECOMMUNICATION FACILITY LOCATION.**

No telecommunications facilities, except exempt facilities as defined in Section 7.03, shall be permitted within:

- A. Historic sites and districts listed on the National Register of Historic Places.
- B. Wetlands.
- C. Floodplains.
- D. Zoning Districts:
  - 1. R-1, Residential Low Density District.

All maps identifying the prohibitive areas are on file with the Town Clerk and are available for public review and inspection.

**7.07 SPECIAL EXCEPTION APPLICATION.**

Locating and constructing a telecommunication tower or a new alternative support structure, including the buildings or other supporting equipment used in connection with said tower shall require a Special Exception Permit. The Town of New Denmark Zoning Board may authorize a Special Exception Permit after review and a public hearing, provided that such special exception is in accordance with the purpose and intent of this Ordinance.

A. Submittal Information. For all telecommunication facilities, except exempt facilities as defined in Section 7.03, the following information is required to accompany every application. Said information shall include, but may not be limited to:

- 1. Completed special exception application and fee of \$500.00.

2. Original signature of applicant and land owner (if the telecommunication facility is located in an easement or pursuant to a ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application.)

3. The identity of the carrier, provider, applicant, landowner and service provider and their legal status.

4. The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application.

5. A plat of survey, showing the parcel boundaries, tower, facilities, location, access, landscaping and fencing.

6. A written legal description of the site.

7. In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the tower owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.

8. A description of the telecommunications services that the applicant offers or provides, to persons, firms, businesses or institutions.

9. Federal Communications Commission (FCC) license numbers and registration numbers, if applicable.

10. Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.

11. An alternative analysis shall be prepared by the actual applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities as defined in Section 7.03, subject to the review and approval of the Town of New Denmark Zoning Board, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunications 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. Approval of the project is subject to the review and approval of the Town of New Denmark Zoning Board. The Town may require independent verification of this analysis at the applicant's expense, the consultant or the alternate chosen by the Town of New Denmark Zoning Board from a list mutually agreed upon by the Town and the Telecommunications Industry.

12. Plans indicating security measures (i.e. access, fencing, lighting, etc.).

13. Shall include a tabular and map inventory of all of the applicants' existing telecommunications towers that are located within the Town of New Denmark, and including all of the applicant's existing towers within fifteen hundred (1,500) feet of the Town boundary. The inventory shall specify the location, height, type, and design of each of the applicants' existing telecommunication towers, and the ability of the tower or antenna structure to accommodate additional co-location antennas.

14. A report prepared by an engineer licensed by the State of Wisconsin, certifying the structural design of the tower and its ability to accommodate additional antennas.

15. Proof of liability insurance coverage, with a Certificate of Insurance, annually or until cancelled, showing the policy period.

16. Such other information as the Town of New Denmark Zoning Board may reasonably require.

17. Copies of an Affidavit of Notification, indicating that the airport operator and airport property owner(s), within the areas limiting telecommunication facility locations as identified under Section 7.05, if applicable, have been notified via certified mail.

B. Co-location. All tower owners shall make available unused space for co-location of other telecommunication facilities, including space for those entities providing similar competing services. Co-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline. All co-located and multiple-user telecommunication support facilities shall be designed for compatible joining to facilitate site sharing.

C. Technical Review. The Town, upon direction of the Zoning Board, shall employ on behalf of the Town, an independent technical expert to review materials submitted in those cases where a technical demonstration of unavoidable need or unavailability of alternatives has been determined necessary by the Board. The applicant shall pay all the costs of said review. The payment to the Town Treasurer shall be due upon receipt of the invoice. All invoices, fees and charges accumulated for the technical review, must be paid in full prior to the issuance of the Special Exception Permit.

D. Submittals Required following the Special Exception Approval. For each special exception permit approved by the Town of New Denmark Zoning Board, the applicant shall submit the following before the special exception permit will be issued:

1. Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings, and the Wisconsin State Bureau of Aeronautics, if applicable.

2. Copies of any Environmental Assessment (EA) reports on Form 600 or Form 854, submitted to Federal Communication Commission (FCC), if applicable.



3. Copies of any filings submitted to the Federal Communication Commission (FCC), shall be submitted within thirty (30) days of filing, subject to the review of the Zoning Board.

4. Proof of Bond as security for removal.

**7.08 ANNUAL INFORMATION REPORT.**

The purpose of the annual review report under this Section is to provide the Town with accurate and current information concerning the telecommunications tower owners and providers, who offer or provide telecommunications services within the Town, or that own or operate telecommunication facilities with the Town, to assist the Town in enforcement of this Ordinance, and to assist the Town in monitoring compliance with the special exception permit and this Ordinance.

A. Annual Information Report. All telecommunications tower owners of any new or existing telecommunication tower, shall submit annually on or before January 31<sup>st</sup> of each year to the Town, a Telecommunications Facility Annual Information Report. The Annual Report shall include the tower owner name(s), address(s), phone number(s), contact person(s), annual review fee, and proof of bond as security for removal. The tower owner shall supply the tower height and current occupancy, if applicable. This information shall be submitted on a county form, designated for such use, and shall become evidence of compliance.

B. Annual Information Report Fee. Following the special exception approval, every year thereafter, the tower owner shall submit on or before January 31<sup>st</sup> of each year to the Town Treasurer, the annual review fee of \$100.00 per tower site. The fee submittal is the responsibility of each tower owner. Failure to provide this information shall result in a civil forfeiture of \$100.00 per day, until the information is received by the Town. Also the tower owner, needs to submit an annual or until cancelled, a Certificate of Insurance, showing the policy period.

**7.09 REMOVAL/SECURITY FOR REMOVAL.**

A. It is that express policy of the Town of New Denmark and this Ordinance, that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications services, and that it is the telecommunications tower owner's responsibility to remove such facilities and restore the site to its original condition or a condition approved by the Town. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to 10 feet below the surface. This depth of removal requirement may be modified by the Town after public hearing and review. After a telecommunications facility is no longer in operation, the tower owner shall have ninety (90) days to effect removal and restoration unless weather prohibits such efforts.

B. Security for Removal. The telecommunications tower owner shall provide to the Town of New Denmark, prior to the issuance of the special exception permit or the issuance of a zoning permit, a performance bond in the amount of Twenty Thousand Dollars (\$20,000.00) or a bond equal to a written estimate from a qualified tower removal contractor, to guarantee that the

telecommunications facility will be removed when no longer in operation. The Town of New Denmark will be named as obliged in the bond and must approve the bonding company.

#### **7.10 PRE-EXISTING TELECOMMUNICATION TOWERS.**

A. All pre-existing telecommunication towers shall be exempt from obtaining a permit and from all zoning regulations as outlined in this Ordinance unless such towers are moved, relocated, increased in height or otherwise substantially changed except as otherwise provided for in Section 7.10 (B) of this ordinance

B. Non-conforming and conforming telecommunication towers and facilities may add to, move or replace the tower and facilities upon review and approval of a Special Exception Permit by the Town Zoning Board. An existing telecommunication tower may be increased in height a maximum of fifty (50) feet, relocated or reconstructed within fifty (50) feet of its existing location to accommodate co-location subject to meeting all other sections of this Ordinance, except Sections 7.07 and 7.12. Routine maintenance and repair on telecommunications facilities is permitted.

#### **7.11 COMPLIANCE.**

A. Revocation. Grounds for revocation of the special exception permit, shall be limited to one of the following findings:

1. 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.
2. The permittee has failed to comply with the conditions of approval imposed.
3. The facility has not been properly maintained.

B. Revocation Process.

1. The owner of such site, service provider and/or tower owner, shall be notified by certified mail of noncompliance by the Town of New Denmark.
2. The owner shall comply with such notice within thirty (30) days, to the satisfaction of the Town Zoning Board.
3. If compliance is not obtained within thirty (30) days, the Town Zoning Board shall notify the Town Board of the noncompliance and request permission to proceed with the revocation process. (This time period may be extended by staff to adjust for seasonal limitations.)
4. The Town Zoning Board shall petition the Town of New Denmark Board for a public hearing following publication of a Class 2 notice in the legal newspaper.

5. A copy of a hearing notice shall be mailed certified to the owner of record of the tower site at least two (2) weeks prior to the hearing date.

6. All members of the Town Zoning Board shall appear at the hearing before the Town Board to present the evidence of noncompliance. All other interested parties may also give testimony to the Board.

C. Abandonment. Any antenna or tower that is not operated for a continuous period of twelve (12) months, shall be considered abandoned. Time may be extended if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:

1. The owner of such antenna and/or tower, shall remove said antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the Town Board notifying the owner of such abandonment. If removal to the satisfaction of the Town Board does not occur within said ninety (90) days, the Town Board may order removal, utilizing the established bond as provided under Section 7.09 and salvage said antenna or tower and all supporting equipment and buildings(s). If there are two or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.

2. The recipient of a special exception permit or zoning permit for a telecommunications facility under this Ordinance shall notify the Town Board when the facility is no longer in operation.

## **7.12 STRUCTURAL, DESIGN AND ENVIRONMENTAL STANDARDS. (Except exempt facilities as defined in Section 7.03.)**

A. Tower, Antenna and Facilities Requirements. All telecommunication facilities, shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

1. All telecommunication facilities shall comply at all times with all Federal Communication Commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal Government. All telecommunication tower and antenna shall meet or exceed the standards and regulations, in place at the time of the issuance of the Special exception Permit, of the Federal Aviation Administration (FAA) the Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), the Federal Communication Commission (FCC), and any other agency of the State and/or Federal Government with the authority to regulate towers and antennas.

2. Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted by the Town to be otherwise.

3. All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers except, where satisfactory evidence is submitted to the Town Zoning Board that a guyed tower is required.

4. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.

5. Telecommunication support facilities (i.e., equipment rooms, utilities, and equipment enclosures) shall be constructed out of non-reflective materials (visible exterior surfaces only). Telecommunication support facilities shall be no taller than one story, fifteen feet (15') in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility.

6. Telecommunications towers, facilities and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, in effect at the time of manufacture.

7. The maximum height of an antenna platform located on a roof top shall be twenty (20) feet above the roof.

8. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Town.

B. Height. The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted. In the case of “crankup” or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.

C. Lighting. Telecommunications towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority.

D. Site Development, Roads and Parking.

1. A leased parcel intended for the location of new telecommunication tower(s) and equipment buildings(s), shall maintain a minimum parcel size of twenty-five hundred (2,500) square feet. The Town of New Denmark Zoning Board may modify the leased parcel size requirement after public hearing and review.

2. A parcel owned by the telecommunication carrier and/or provider and intended for the location of new telecommunication tower(s) and equipment building(s), shall meet the minimum size requirement of the zoning district.

3. All sites must be served by a minimum thirty (30) foot wide easement with a turn around. The Town Zoning Board may modify the easement and turn around requirement after public hearing and review. All sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the Town of New Demark or the Brown County Highway Department depending on road jurisdiction.

E. Vegetation Protection and Facility Screening.

1. Except exempt facilities as defined in Section 7.03, all telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of an initial height of 5 feet that will provide a buffer area of at least 4 feet in width that will provide the appropriate level of visual screening immediately upon installation.

2. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping during the current growing season.

3. Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings, so as to reduce visual impacts.

F. Fire Prevention. All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

G. Noise and Traffic. All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end, all the following measures shall be implemented for all telecommunication facilities, except exempt facilities as defined in Section 7.03:

1. Noise producing construction activities shall only take place on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair; and

2. Backup generators shall only be operated during power outages and for testing and maintenance purposes.

H. Signs. Signs shall be mounted on the fenced enclosure, on or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency. The sign shall be no larger than six (6) square feet.

No commercial advertising signs may be located on the telecommunications facilities.

**7.13 SEPARATION AND SETBACK REQUIREMENTS. (Except exempt facilities as defined in Section 7.03).**

A. Minimum Separation between Telecommunication Towers (by tower type).

Proposed Tower Types:	Lattice	Guyed	Monopole - 85 ft. in height or greater
Lattice	1 mile	1 mile	1 mile
Guyed	1 mile	1 mile	1 mile
Monopole - 85 ft. in height or greater	1 mile	1 mile	1 mile

1. Additional towers may be permitted subject to special exception review and approval of the Town Zoning Board.

2. Camouflaged towers may be located closer than requirement listed above with special exception approval.

B. Setbacks. All setbacks shall be measured from the base of the tower or structure.

1. Setbacks from all habitable residential buildings, except buildings located on the subject parcel, shall be a minimum of five hundred (500) feet.

2. Setbacks from all historic sites and districts. All new towers shall be setback a distance equal to 125% of the height of the tower from historic sites and districts.

3. Setbacks from the road right of ways of all streets. All new towers shall be setback a distance equal to 125% of the height of the tower from all streets.

4. Setbacks from property lines. All new towers shall be setback a minimum of 125% of the height of the tower from all property liens. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.) This setback requirement may be modified by the Town Zoning Board after public hearing and review.

5. Setback from the Ordinary High Water Mark (OHWM). All new towers shall be setback a minimum of 125% of the tower height from the Ordinary High Water Mark (OHWM) of a navigable lake or stream.

6. Guy Wire Anchor Setback. All guy wire anchors shall be at least twenty-five (25) feet from all property lines. This setback requirement may be modified by the Town Zoning Board after public hearing and review.

**7.14 ZONING PERMITS.**

A Town of New Denmark zoning permit is required from the Town Board, for the location of all telecommunication facilities, except exempt facilities as defined in Section 7.03. The applicant shall submit information required under Section 7.07(A), Special Exception

application, except the special exception application and fee. Facilities proposed to be co-located on facilities previously approved under this Ordinance shall be exempt from submitting information required under Section 7.07(A), but shall be required to submit a zoning permit application for review and approval.

A. Permitted Uses:

1. Locating/Installing an antenna that adds no more than fifty (50) feet to the height of a new or existing alternative support structure or an existing telecommunication tower, including placement of additional buildings or other supporting equipment used in connection with said antenna, subject to meeting all other sections of this Ordinance except Section 7.07, and if located on land zoned A-1 is subject to meeting the requirements of Sec. 91.01(10) Wis. Stats.

2. Existing non-conforming and conforming telecommunication towers, antennas and facilities may be increased one time during the life of the tower, a maximum of fifty (50) feet in order to accommodate co-location.

**7.15 APPEAL PROCEDURES.**

A person aggrieved by any decision of the Town of New Denmark Zoning Board, or its successor, regarding the siting of a telecommunications facility, may within thirty (30) days after the filing of the decision in the Town of New Denmark Board, commence an action seeking the remedy available by certiorari.

A. Upon recommendation of the Town Zoning Board, the Town Board shall from time to time, establish and review fees for application processing, annual information, existing information, review fees, security for removal, and any other fees that the Town Board may deem appropriate as it applies to this Ordinance.

B. No application shall be considered filed with the Town unless, and until said application is accompanied by the appropriate application fee.

**7.16 APPLICABILITY.**

A. Exemptions Under State Law. This subchapter applies to any land division in any unincorporated area of the Town of New Denmark, where the division creates at least one parcel of land which is nineteen (19) acres or smaller in area, unless the division is covered by the exemptions listed in §236.03(2), §236.03(3) or §236.45(a)1 through 3, Wis. Stats. Such exemptions are below. Except that any quarter-quarter section, fractional or otherwise, served by a public road, may be split into two (2) equal parcels without a survey; however, this does not apply to Government lots. Such land divisions require review by the Town.

§236.03(2) Cemetery and assessors' plats.

§236.03(3) Sale or exchange of parcels of public utility or railroad right-of-way to adjoining property owners, where approved by joining property owners, where approved by the City, Village, or Town or County.

§236.45(2)(a)

1. Transfers of interests in land by Will or court order.
2. Leases for terms not to exceed ten (10) years, mortgages or easements.
3. Sale or exchange of land between owners of adjoining parcels if no new lots are created and if neither lot is reduced below minimum size lots.

B. A legal description or preliminary map for an exemption based on §236.45(2)(a)3, shall be reviewed by the Town prior to recording any document evidencing the contemplated sale or exchange of real estate: the legal description or preliminary map shall clearly describe or indicate the parcel to which it is to be attached. Review of legal description or preliminary map shall be completed in ten (10) working days. If not reviewed within ten (10) working days, it shall be determined to be approved.

C. All certified survey maps shall be reviewed by the Town prior to recording, as well as, any legal description which divides an existing parcel.

**7.17 SEVERABILITY**

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance. The Town of New Denmark Board declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more such provisions be declared unconstitutional or invalid. This Ordinance shall be published in the manner and form required by the Wisconsin Statutes as amended from time to time, and shall be effective on the date of publication or posting.

3/9/2009