

**TOWN OF KNOWLTON, MARATHON COUNTY  
ORDINANCE 2009-1  
TELECOMMUNICATIONS FACILITIES ORDINANCE**

**SECTION 1:**

**Telecommunications facilities.**

**(a) Purpose:** The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers, antennas and facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the Town of Knowlton, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that the Town of Knowlton shall apply these regulations to accomplish the following:

- (1) Facilitate the provision of non-discriminatory and competitive wireless telecommunications services to the residents and businesses of the town.
- (2) Provide a process for obtaining necessary permits for telecommunications facilities while protecting the interests of the citizens of the town.
- (3) Avoid potential damage to adjacent properties through tower failure by establishing structural standards and setback requirements.
- (4) Minimize adverse visual effects of towers, antennas and facilities through careful design and siting standards.
- (5) Minimize the total number of towers in the Town through the use of alternative support structures, co-location of new antennas on existing towers and buildings, and construction of towers with the ability to locate four or more providers.
- (6) Protect environmentally sensitive areas of the Town, including the protection of migratory birds, through the placement of a maximum height limitation on new towers, the effective prohibition of guyed tower structures, and the prohibition of towers in key habitat areas such as wetlands, shorelands and floodplains.

**(b) Definitions.** The following definitions shall apply:

*Alternative support structure* means structures including but not limited to clock towers, steeples, silos, light poles, water towers, free-standing chimneys, utility poles and

towers, towers, buildings or similar structures that may support telecommunications facilities.

*Antenna* means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which are deemed to be a part of the antenna. This definition includes any future system that serves the purpose of a conventional antenna.

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

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

*Applicant* means one who applies.

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

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

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

*FAA* means Federal Aviation Administration. *FCC* means Federal Communications Commission.

*Ground equipment* means telecommunications facility support equipment and buildings.

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

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

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

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

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

*Provider*, see Carrier.

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

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

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

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

*Town* means Town of Knowlton

*Tower*: see telecommunications tower

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

**. (c) Exemptions.**

- (1) Any pre-existing tower or antenna for which permits have been issued prior to the effective date of this section is exempt from its provisions. Any addition or change to a pre-existing tower shall make such tower subject to all applicable requirements of this section.
- (2) Any new antenna or ground equipment proposed for an existing tower or alternative support structure shall be exempt from the conditional use permit requirements of this section, and shall only require a land use

permit from the Town.

- (3) Any tower or antenna that is used exclusively for federally licensed amateur radio is exempt from this section, unless the tower or antenna exceeds 200 feet in height.
- (4) Receive-only television or radio antennas and receive-only satellite dishes are exempt from this section, unless the antennas or dishes exceed 200 feet in height.
- (5) Public safety towers or antennas used for law enforcement and/or emergency communications are exempt from this section.
- (6) Mobile services providing public information coverage of news of a temporary or emergency nature are exempt from this section.
- (7) Exempt structures under this section are subject to all other applicable provisions of the municipal zoning code of the Town.

**(d) *Areas where telecommunications facilities may be allowed or prohibited.***

(1) Telecommunications facilities may be allowed in the following zoning districts, subject to public hearing and review by the planning commission and approval by the town board:

- a. AG agriculture Zone AG – 1/2.
- b. M-1; M-2 manufacturing

(2) Telecommunications facilities, except exempt facilities, shall not be allowed in the following areas due to potential harm to the environment:

- a. Wetlands
- b. Shorelands.
- c. Floodplains.

(3) Telecommunications facilities, except exempt facilities, shall not be allowed in the following areas due to potential conflict with other uses of the land:

- a. Habitat areas of threatened or endangered species.

- b. Areas designated for planned residential use by the Town of Knowlton.
- c. Significant historic or cultural sites or buildings,

**(e) *Town of Knowlton approval is required.***

- (1) The Town's approval is required for all telecommunications facilities, except exempt facilities. The Town's approval is also required for any additions or changes to pre-existing towers and alternative support structures will make such towers subject to all applicable requirements.
- (2) The planning/zoning committee shall review the County Special Exception application for compliance with the provisions of this section. The committee will make a recommendation to the Town Board in writing.
- (3) The application shall also include the following:
  - a. A legal description of the facility site.
  - b. A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
  - c. An original signature of the applicant, landowner, lessees and holders of easements. The identity of the carrier, service provider, applicant, landowner and their legal status. The name, address and telephone number of the officer, agent or employee responsible for the application.
  - d. A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses or institutions.
  - e. 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 facility owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
  - f. A description of the proposed tower's height and capacity, including the potential number and type of antennas and carriers/providers that it can accommodate.

- g. Location of all sites that were considered as possible alternatives to the site being applied for, including existing structures and towers, and the reasons for recommending the current site.
  - h. Photo simulations of the proposed facility. A photo simulation shall be no smaller than eight inches by ten inches.
  - i. A tabular and map inventory of all the applicant's existing telecommunications facilities located within the Town of Knowlton and including all of the applicants' existing telecommunications facilities within three miles of the Town boundary.
  - j. FCC license numbers and registration numbers, if applicable.
  - k. Copies of finding of no significant impacts (FONSI) statement from the FCC or environmental impact study (EIS), if applicable.
  - l. Copies of the determination of no hazard from the FAA including any aeronautical study determination or other findings from the Wisconsin Department of Transportation bureau of Aeronautics if applicable.
  - m. A report prepared by a structural engineer licensed by the state of Wisconsin certifying the structural design of the tower and its ability to accommodate at least three additional antennas.
  - n. Proof of liability coverage. The Town of Knowlton shall be a certificate holder in this policy.
  - o. Proof of financial security for tower removal as defined in subsection (i)(2).
  - p. Such other information as the planning/zoning committee or the Town board may reasonably require.
  - q. A narrative demonstrating how the applicant has complied with the requirements for the telecommunications facility conditional use permit.
- (4) The Town board may employ on behalf of the Town 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 reasonable costs of such review and/or independent analysis, and shall pay the estimated cost of such services before they are rendered. All invoices, fees and charges shall be paid in full before the approval of the application.

**(f) Co-location.** Co-location shall be the preferred method for establishing new telecommunications facilities. Every effort shall be made to co-locate the proposed facility on existing telecommunications facilities or other similar facilities or alternative support structures.

- (1) No tower or structure shall be permitted as a matter of right or shall be permissible in any zoning district unless the applicant proves with sufficient credible evidence to the satisfaction of the town board, after review by the planning/zoning committee, that no existing tower can accommodate the applicant's proposed antenna. Sufficient credible evidence shall consist of not less than a signed statement by a licensed professional engineer that:
  - a. No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
  - b. Existing towers or alternative support structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing towers or alternative support structures do not have sufficient strength to support the 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 alternative support structure, or the system on the existing tower or alternative support structure would cause electromagnetic interference with the applicant's proposed system.
  - e. The fees, cost or contractual provisions required by the owner to share an existing tower or alternative support structure or to adapt an existing tower or alternative support structure for co-location are unreasonable. Costs are considered unreasonable if they exceed 125 percent of new tower construction and development.
  - f. The applicant demonstrates that there are other limiting factors that render existing towers or alternative support structures unsuitable.
- (2) New or modified tower owners are required to accommodate the applicant's antenna and compatible antennas for at least three additional users (a minimum of four total users) if the tower or structure exceeds 100 feet in height. Any owner authorized to construct a tower or structure who refuses to allow use by other parties by the position of contractual provisions, fees or costs that are unreasonable shall be subject to revocation of the conditional use permit.
- (3) All co-location inquiries made to an owner shall be made in writing. An owner who is contacted for the purpose of potential co-location shall respond in writing within 30 days of receipt of a written inquiry.

- (4) The Town shall have the right to reserve space upon any new tower or upon any tower being substantially modified. Reservation of the accommodation upon the structure shall be acquired during the permit approval process through good faith negotiations with the applicant.

**(g) *Design requirements as per Marathon County Zoning Ordinances.***

- (1) The Town of Knowlton does prefer the monopole structure over the other structures
- (2) New towers shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least three additional users (minimum of four total users). Towers must also be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at different heights.
- (3) Lighting. As per Marathon County Zoning Ordinance
- (4) Setbacks. As per Marathon County Ordinances

**(h) *Performance standards.***

- 1) Monitoring and reporting. The applicant shall monitor the telecommunications facility to ensure full compliance with FCC regulations. A report shall be submitted to the department within one month of activation of the facility. Additional reports shall be submitted as needed in conformance with subsection (k) of this section.
- (2) Insurance. All towers, antennas and telecommunications structures must be adequately insured for injury to persons and damage to property. The Town of Knowlton shall be listed as an additional "insured" for liability in the event of tower or facility failure.
- (3) Security for removal. The applicant or owner of the telecommunications facility shall provide a bond, irrevocable letter of credit or other suitable financial guarantee as determined by the planning/zoning committee to ensure the removal of the facility and restoration of the site to its pre-construction state when use of the facility has been discontinued as defined by subsection (i) of this section. The amount of financial guarantee shall be no less than the cost of removal. The Town of Knowlton shall be a certificate holder in the financial guarantee.
- (4) Security. All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from the ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a six foot high chain link fence with a locked gate. Guy anchors of guyed towers shall be similarly protected.



(5) 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 square feet. No commercial advertising signs may be located on a telecommunications facility site.

(6) Screening and landscaping. All telecommunications facilities, except exempt facilities, shall be designed to blend into the surrounding environment and to hide views of the facility from adjoining properties and public roads to the greatest extent feasible.

a. Existing mature vegetation and natural landforms shall be preserved to the greatest extent possible.

b. In locations where existing mature vegetation and landforms will not adequately screen the views of the facility, the site shall be landscaped and maintained with a buffer of plant materials.

1. The landscaped buffer shall effectively screen the view of all tower accessory structures, equipment and improvements at ground level.

2. The area shall be so designed and planted as to be 75 percent or more opaque between two and six feet above ground level within not less than 24 months of the date of planting.

3. Upon project completion the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping and screening.

4. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the town board upon the recommendation of the planning commission.

c. A camouflaged tower may be required by the town board in order to minimize adverse visual effects.

(7) Access. Access shall be provided by an all-weather gravel or paved driveway.

(8) Lot size. When a new lot is created for the purpose of locating a telecommunications facility, the minimum lot size for that zoning district shall apply.

(9) Facility construction. All telecommunications facilities approved with a conditional use permit shall be completely constructed and in operation within six months of the date of approval. An extension of time, not to exceed six months, may be granted by the town board due to inclement weather or other extenuating circumstances. There is no additional fee for an extension.

**(i) Removal of abandoned telecommunications facility.** It is the express policy of the Town of Knowlton that telecommunications facilities be removed and their sites restored to their pre-construction state once they are no longer in use and not a functional part of providing telecommunications service.

- (1) Removal and restoration of such facilities is the responsibility of the owner of the facility.
- (2) The telecommunications facility(s) shall be removed when use of the facility(s) has been discontinued or the facility not been used for its permitted purpose for 6 consecutive months. Mere intent to discontinue use of the facility(s) shall not constitute use. The applicant/owner shall demonstrate through facility(s) lease(s) or other similar instruments that the use will be continued without a lapse of more than 6 consecutive months to constitute actual use. If the applicant cannot demonstrate actual use, the facility shall be considered abandoned and shall be removed.
- (3) This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility.
- (4) Nothing in this section prevents the removal of the facility prior to expiration of the 6 month period.

**(j) Compliance review and revocation.** Each telecommunications facility under the jurisdiction of this section will be reviewed by the town for compliance each year. To facilitate the review, each telecommunications tower owner/operator shall submit annually on or before January 31st of each year, to the Town clerk a telecommunications facility annual information report. This annual report shall include the owner/operator names, addresses, phone numbers, contact person(s), and any other appropriate information deemed necessary by the Town board. The owner/operator shall supply the number of co-location positions designated, occupied or vacant. The information shall be submitted to the Town, and shall become evidence of compliance. An annual fee shall be collected from the owner/operator to fund the review of the requirements of this section. Failure to comply with the requirements of this section may result in the revocation of a conditional use permit, if such action is deemed necessary by the Town board.

**(k) Fees.** Review fees for telecommunications facilities are set as follows:

- (1) Application review by planning/zoning committee..... (present meeting fee)
- (2) Compliance review for telecommunications facility ... (present meeting fee)

**SECTION 2:** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3:** This ordinance shall be in full force and effect from and after its

passage and publication as provided by law.

ADOPTED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

KNOWLTON TOWN BOARD:

\_\_\_\_\_ Chairman, Jim Morris

\_\_\_\_\_ Supervisor, Brian Feit

\_\_\_\_\_ Supervisor, Kevin Brown

Attest: \_\_\_\_\_ Clerk, Sandy Morris