

Town Ordinances

Town of Farmington, Wisconsin - Jefferson County



Chapter 3

License & Permits

- A Dog License
- B Liquor License
- C Operator License
- D Garbage / Recycling Collection
- E Junk / Salvage Yard
- F Communications Towers and Antennas

CHAPTER 3

A. TOWN OF FARMINGTON DOG ORDINANCE

1. This ordinance is entitled "Town of Farmington Dog Ordinance."
2. It is the purpose of this ordinance is to enforce dog licensing requirements and to curtail dogs from roaming individually or as dog packs in a manner to expose persons and property in the Town of Farmington to bodily injury or damage. It is also the purpose of this ordinance to complement application of Chapter 174 **Wis.** Stats. in the Town of Farmington.
3. Definitions:
 - (a) "Humane Officer" means Town of Farmington Humane Officer.
 - (b) "License Year" from January 1 through December 31.
 - (c) "Owning" means having actual ownership, harboring, keeping, or having temporary custody of a dog.
 - (d) "Owner" means every person who owns, harbors, keeps or has temporary custody of a dog.
 - (e) "Running at large" means off the premises of the owner; or, not in near enough proximity to the owner, so that the owner can in fact control their dog. Working farm dogs in the course of their normal duties, and hunting dogs while accompanied by their hunting master, shall not be deemed "Running at large."
 - (f) "Town" means the Town of Farmington.
 - (g) "Town law enforcement officer" means Police Officer, Sheriff or Deputy, Humane Officer, or any other person designated by the Town Board of the Town of Farmington to enforce Town Ordinances.
 - (h) "Town Treasurer" means Treasurer of the Town of Farmington.
 - (i) "Kennel" means any establishment wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes.
4. Every person, and pursuant to Chapter 174, Wis. Stats., this ordinance, residing in the Town of Farmington who

owns a dog that on January 1 is at least five (5) months old, shall annually at the time and in the manner prescribed by law for payment of Real Estate and of Personal Property taxes, seek and obtain a dog license for their dog from the Town of Farmington. The fee for the license shall be established annually by Jefferson County. The license shall be from January 1 through December 31. Late fees shall be charged by the Town of Farmington if the license is not purchased by April 1 or if not purchased within thirty (30) days of acquiring ownership of the dog.

5. Any person who keeps or operates a kennel may, in lieu of the license fee for each dog required by this ordinance, apply to the Town Treasurer for a kennel operating license.

The fee for the license shall be established annually by Jefferson County. The license shall be from January 1 through December 31. The Town Treasurer will issue a number of tags equal to the number of dogs authorized to be kept in the kennel. More than four (4) dogs requires a Kennel license.

6. The application for the dog license shall include a certificate of inoculation from a qualified veterinarian showing that the dog has been inoculated for rabies within two (2) years of the application. The application shall also include:

- (a) Name of owner
- (b) Address of owner
- (c) Telephone number of owner
- (d) Name of dog
- (e) Breed, color, and sex of dog

7. Upon application for the dog license from the Town Treasurer, any dog specially trained to assist handicapped persons shall be exempt from dog license fees.

8. No person shall own *or* keep any dog in the Town of Farmington unless the dog is wearing a valid Town of Farmington license tag attached to its collar.

9. It shall be unlawfull for any dog owner to fail to take such action or use such means as is reasonably necessary to prevent such dog from running at large.

10. It shall be unlawfull for any dog owner to fail to prevent such dog from being disorderly of repeatedly disorderly.

- (a) "Disorderly" in this section means conduct by a dog which is unreasonably loud, violent or otherwise

disorderly conduct under circumstances in which such conduct tends to cause or prevoke a disturbance.

(b) "Repeatedly" in this section means on more than two occasions when a dog owner has received complaints from the Town citizens or Town Law Enforcement Officers that such owner's dog is or was recently disorderly.

11. It shall be unlawful for any person owning a dog to abandon it in the Town of Farmington.
12. Any dog in the Town of Farmington which does not bear a required dog license tag, or any dog running at large in the Town of Farmington, shall be caught and impounded by the Town Humane Officer, Town Law Enforcement Officer, or by any member of the Town Board of the Town of Farmington.
13. Any dog without a license tag attached to a collar shall be presumptive evidence that the dog is unlicensed.
14. Any dog caught and impounded in accordance with the provisions of this ordinance shall be delivered to the Town Humane Officer.
15. Immediately after any dog is impounded in accordance with the provisions of this ordinance, the Town Humane Officer shall notify the owner of such dog, if the owner is known or can be ascertained with reasonable effect, that the dog has been impounded and that it may be reclaimed within seven (7) days or be destroyed.
16. If the owner of the impounded dog is unknown or cannot be ascertained with reasonable effort, the Humane Officer shall post in three places in the Town a description of such impounded dog stating where the dog is impounded and if the owner of such impounded dog does not reclaim it within seven (7) days, the dog shall be disposed of in a proper and humane manner. The Humane Officer shall also carefully read the lost and found advertisements of the local newspapers to determine whether such impounded dog is advertised as lost, and if so, shall promptly notify the advertiser.
17. The Humane Officer shall require proof from the Town Treasurer of the Town of Farmington that a dog license has been purchased before releasing an impounded dog to its owner.
18. The dog license fee and the cost incurred for keeping an impounded dog shall constitute a lien against such dog.
19. Reclamation of an impounded dog shall not be a defence to prosecution for violation of this ordinance.

20. The Humane Officer holding a dog impounded in accordance with this ordinance, may request payment from the dog owner for the ordinary and necessary costs actually incurred in seizure, impoundment, and destruction of an owner's dog. The Humane Officer, if not paid for such costs incurred, may present for approval a voucher to the Town Board of the Town of Farmington for payment of such costs.

21. The Town Board of the Town of Farmington may recover as costs from a dog owner found in violation of this ordinance, any and all expenditures made to **sieze** and impound or destruct a dog from such a dog owner.

22. Except as otherwise provided, any owner of a dog who violates the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$10.00 nor more than \$100.00, together with the costs of prosecution.

23. Any dog owner who is convicted of a violation of this ordinance, who was also convicted of a violation of this ordinance within three years preceeding the violation for which they are about to be penalized, shall pay a forfeiture of not less than \$25.00 nor more than \$100.00, together with the costs of prosecution.

24. Any dog owner who violates this ordinance and thereby whose dog substantially causes personal injury to a person, which injury requires medical care, shall, upon conviction, pay a forfeiture of not less than \$25.00 nor more than \$100.00 together with the costs of prosecution.

25. Nonpayment of any forfeiture and costs provided in this ordinance by any person, who has the ability to pay such a forfeiture and costs, shall be confined in a common jail of Jefferson County unti¹¹ such forfeitue and costs are paid. In no event shall such confinement exceed thrity (30) days.

26. The Town Humane Officer or any member of the Town Board of the Town of Farmington is authorized and directed to make investigation and to sign complaints concerning alleged violations of this ordinance for and in behalf of the Town of Farmington. The Town Board of the Town of Farmington is authorized to retain **legal** counsel to assist in the prosecution of violation of this ordinance and in accordance with Sections 66.119, 60.29(13) and 61.34, Wis. stats., to prepare for Town adoption a citation form for use in enforcing this ordinance.

27. The Town Humane Officer or any member of the Town Board of the Town of Farmington engaged in enforcing the provisions of this ordinance may question person and inspect property in the Town of Farmington.

28. In the event any person having possession of property which is subject of investigation refuses to consent to entry for the purpose of inspection, a Town Humane Officer, Town Law Enforcement Officer, or any member of the Town Board of the Town of Farmington may apply for a special inspection warrant in accordance with the provision of Sections 122 and 123 Wis. Stats.

29. The Town Board of the Town of Farmington has, by this ordinance and pursuant to Sec. 174.06, Wis. Stats., named the listing official required by September 1 of each year to list the dogs in the Town of Farmington. The listing official shall be appointed by the Town Board of the Town of Farmington and shall be required to complete all the forms relating to the listing process completely.

30. The Town Treasurer of the Town of Farmington shall, pursuant to Chapter 174 Wis. Stats., notify the District Attorney of the County of Jefferson of the refusal of any owner to obtain a license for keeping their dog in the Town of Farmington.

31. This ordinance shall take effect and be in full force from and after the date of its passage and publication according to law.

CHAPTER 3

B. AN ORDINANCE REGULATING ALCOHOL BEVERAGES

The Town Board of the Town of Farmington, Jefferson County, Wisconsin, in accordance with Section 125.10 of the Wisconsin Statutes, does ordain as follows:

Section 1.

The definitions of words used in this ordinance shall be those set forth in Section 125.02 of the Wisconsin Statutes, and as said Statute Section may hereafter be amended, and said definitions are hereby incorporated herein by reference as though fully set forth.

Section 2.

No person may sell, manufacture, rectify, **brew** or engage in any other activity for which Chapter 125, Statutes, requires a license, permit or other authorization, without holding the appropriate license, permit or other authorization therefor.

Section 3.

Unless otherwise specifically provided, all alcohol beverage licenses issued by the Town shall take effect on the 1st day of July, and shall expire on the succeeding 30th day of June.

Section 4.

(1) The fee for a Class B retail license for the sale of fermented malt beverages shall be \$50.00 for the year. Such licenses may be issued in accordance with Section 125.26, Statutes, including as said Section may hereafter be amended.

(2) The fee for a Class B retail license for the sale of intoxicating liquors shall be \$50.00 for the year. Such license may be issued in accordance with Section 125.51, Statutes, including as said Section may hereafter be amended.

(3) The fee for a Class B retail license for the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society, issued to bona fide clubs, state, county or local fair associations for agricultural societies, lodges or societies that have been in exis-

violation of this ordinance was also convicted of a violation of this ordinance within three years preceding the violation for which he is about to be penalized, such person shall pay a forfeiture of not less than \$200.00 and not more than \$500.00 together with the costs of prosecution and penalty assessment. In this section, the dates of violation shall be used to determine whether or not a person has been convicted within three years preceding the violation for which he is about to be penalized. The following cash deposits shall apply to enforcement of this ordinance by Town Citations:

| | <u>NON-REPEATER</u> | <u>REPEATER</u> |
|--------------------|---------------------|-----------------|
| Deposit | \$50.00 | \$200.00 |
| Costs | 10.00 | 10.00 |
| Penalty Assessment | <u>6.00</u> | <u>24.00</u> |
| Total | <u>\$66.00</u> | <u>\$234.00</u> |

Section 11.

Any reference to the masculine gender herein shall be deemed to include both genders.

Section 12.

The provisions of this ordinance are severable and invalidity of any section or part thereof shall not render the entire ordinance invalid.

Section 13.

This ordinance shall be effective upon passage and publication.

The foregoing ordinance was adopted at a regular meeting of the Town Board of the Town of Farmington, Jefferson County, Wisconsin, on the 6th day of June, 1983.

CHAPTER 3

C. TOWN OF FARMINGTON OPERATOR'S LICENSE ORDINANCE

The Town Board of the Town of Farmington, Jefferson County, Wisconsin, pursuant to Section 125.17 and Section 125.18, Wis. Stats., hereby provides for the issuance and reissuance of an Operator's License for alcoholic beverages. The Operator's License may not be required by the Town of Farmington other than for the purpose for the person complying with Section 125.32 (2) and Section 125.68 (2), Wis. Stats. The Town Board of the Town of Farmington in considering whether to issue or reissue an Operator's License shall consider any factors relevant to the issuance of the Operator's License including but not necessarily limited to the following factors:

- (a) Any violations of Chapter 125, Wis. Stats., or this Ordinance.
- (b) Whether the operator has kept or maintained a disorderly or riotous, indecent or improper premises.
- (c) Whether the operator sold or gave **away** alcoholic beverages to known drunkards or known intoxicated persons.
- (d) Whether the operator does not possess the qualifications to hold a license or permit.
- (e) Whether the operator has failed to maintain sanitary standards established by the State of Wisconsin or the Town of Farmington.
- (f) Whether the operator was convicted of a criminal offense contrary to Section 944.21, Wis. Stats., related to obscene performances in the Town of Farmington. Whether the operator was convicted of any criminal offense defined under the Wisconsin Statutes.

The fees for operator's licenses or permits shall be established annually by the Town Board of the Town of Farmington. The license or permit shall run for one year from the date of its issuance.

No license or permit for the sale of alcoholic beverages may be delivered to the applicant by the Town of Farmington, its officers, employees or agents until the applicant files for the Town Clerk of the Town of Farmington a receipt showing payment of the license or permit fee to the Town Treasurer of the Town of Farmington. The Town of Farmington may not require an applicant to pay a license or permit fee more than 30 days prior to the date of issuance or reissuance of the license or permit. The license or permit shall be issued by the Town Clerk of the Town of Farmington prior to any person selling the alcoholic beverage in the Town of Farmington.

CHAPTER 3

D. GARBAGE/RECYCLING COLLECTION LICENSE ORDINANCE

The Town Board of the Town of Farmington, Jefferson County, Wisconsin, does hereby ordain as follows:

(1) DEFINITIONS. Whenever used in this section unless a different meaning appears from the context:

- (a) A "person" shall be construed to include any individual, partnership, firm, company, corporation, whether tenant, owner, lessee, licensee, or other agent, heir, or assign.

(2) No person shall be permitted to collect garbage or recyclable materials without obtaining a license for such collection from the Town Board of the Town of Farmington. The fee for said license shall be fixed at \$200.00. The license shall be reviewed and renewed annually at the same rate unless the rate is changed by the Town Board.

(3) All recyclers/collectors shall provide all information regarding tonnage of all recyclables collected by January 15 of each year as such information is required by State rules, regulations, and statutes.

(4) A violation of this ordinance shall permit the Town to obtain an injunction from the Circuit Court of Jefferson County preventing any person from engaging in the collection of garbage or recyclable materials in the Town of Farmington.

(5) The Town shall also be entitled to reimbursement for actual attorneys fees incurred to enforce the above ordinance.

TOWN OF FARMINGTON

CHAPTER 3

E. JUNKYARD/SALVAGE YARD ORDINANCE

The Town Board of the Town of Farmington, Jefferson county, Wisconsin, does hereby ordain as follows: Every person, pursuant to Section 60.10, 84.31, and 175.25, Wis. Stats., and this Ordinance, in the Town of Farmington who shall accumulate or store any kind of junk or debris including but by no means limited to automobiles, parts thereof, tires, pallets, motors, or any other junk or salvage or parts thereof within five hundred (500) feet of the center line of any town road in the Town of Farmington shall seek and obtain a junkyard permit from the Town of Farmington. The fee for such permit shall be established by the Town Board on an annual basis. The permit shall be valid for one year from the date of its issuance. The permit shall be issued by the Town Clerk of the Town of Farmington prior to any person accumulating or storing such junk, debris or material in the Town of Farmington.

The application and permit shall designate the premises to be permitted. The permit may be amended without charge if the permitted changes premises in the Town of Farmington. However, the permit is not transferable from one person to another. The application permit shall contain the following:

- (a) The name of the applicant;
- (b) The address of the commercial premises;
- (c) The commercial premises's telephone number, if any, and the residential telephone number of the applicant, if any;
- (d) The age of the applicant;
- (e) A description of the commercial premises;
- (f) The quantity and manner of storing such junk and
- (g) The projected number of years for accumulation, storage and removal of the junk.

No person shall be issued or reissued a permit under this Ordinance until the appropriate fee has been paid to the Town Clerk of the Town of Farmington.

No person shall be issued or reissued a junkyard permit in the Town of Farmington if the applicant for the junkyard permit;

- (a) Fails to install and maintain premises as determined by Town Board.
- (b) Fails to prevent and remove inappropriate advertising on the fences as determined by the Town Board.
- (c) Fails to install and maintain adequate fire safety

ORDINANCE

REGULATING TELECOMMUNICATIONS ANTENNAS AND TOWERS

The Town Board of the Town of Farmington, Jefferson County, Wisconsin, does hereby ordain as follows:

Section 1: TELECOMMUNICATIONS ANTENNAS AND TOWERS

A. **DEFINITIONS.** As used in this article, the following terms shall have the meanings indicated:

1. "Alternative tower structure" shall mean man-made structures such as elevated tanks, electric utility transmission line towers, non-residential buildings, and similar alternative-design 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" shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.
3. "FAA" shall mean the Federal Aviation Administration.
4. "FCC" shall mean the Federal Communications Commission.
5. "Governing authority" shall mean the governing authority of the Town of Farmington.
6. "Pre-existing towers and antennas" shall have the meaning set forth in Section B. (4.) of this article.
7. "Height" shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
8. "Tower" shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures, and the like.

B. **APPLICABILITY**

1. District Height Limitations. The requirements set forth in this article shall govern the location and height of towers in the Town of Farmington.
 - a. In agricultural areas towers shall be limited to a height of not more than seventy (70) feet, including the existing structure (for example: if the tower is placed on a silo).
 - b. In non-agricultural areas towers shall not exceed three hundred (300) feet in height.
2. Public Property. Antennas located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this article, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
3. Amateur Radio: Receive-Only Antennas. This article shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively as a receive-only antenna.
4. Pre-Existing Towers and Antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this article shall not be required to meet the requirements of this article, other than the requirements of Sections C.5. and C.6. Any such towers or antennas shall be referred to in this article as "pre-existing towers" or "pre-existing antennas."

C. **GENERAL GUIDELINES AND REQUIREMENTS**

1. Purpose: Goals: The purpose of this article is to establish general guidelines for the siting of towers and antennas. The goals of this article are to: (i) encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community, (ii) strongly encourage the joint use of new and existing tower sites, (iii) encourage users of towers and antennas to locate them, to the extent possible, in

areas where the adverse impact on the community is minimal, (iv) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, (v) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently, and (vi) require that towers and antennas be located only on existing structures.

2. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to set-back requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
3. Inventory of Existing Sites. Each applicant for an antenna and or tower shall provide to the Town an inventory of its existing towers that are either within the jurisdiction of the governing authority, or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Town may share such information with **other applicants applying for administrative approvals or Conditional Use permits** under this article, or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
4. Aesthetics and Lighting. The guidelines set forth in this Section C.4. shall govern the location of all towers, and the installation of all antennas, governed by this article, provided, however, that the governing authority may waive these requirements if it determines that the goals of this article are better served thereby.
 - a. Towers shall maintain a galvanized steel finish, or, subject to any applicable standards of the FAA,

be painted a neutral color so as to reduce visual obtrusiveness.

- b. **At a** tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting, alternatives and approve the design that would cause the least disturbance to the surrounding views.
 - e. Towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name be shown on the tower or antenna, it shall be posted no more than 6 ft. above the ground on a placard no larger than 1-1/2 sq. ft.
5. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to **regulate** towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the governing authority at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.
6. Building Codes, Safety standards. To ensure the structural integrity of towers, the owner of a tower

shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes, and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may remove such tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

D. **PERMITTED USES**

1. General. The uses listed in this Section O. are deemed to be permitted uses and shall not require a Conditional Use permit. Nevertheless, all such uses shall comply **with** Section C. of this article and all other applicable articles.
2. Specific Permitted Uses. The following uses are specifically permitted:
 - a. Installing an antenna on an existing alternative tower structure, so long as said additional antenna adds no more than twenty (20) feet to the height of said existing structure; and
 - b. Installing an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection **with** said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower.

E. **CONDITIONAL USE PERMITS**

1. General. The following provisions shall govern Conditional Use permits:
 - a. If the tower or antenna is not a permitted use under Section D of this article, then a Conditional

Use permit shall be required prior to construction of any tower, or the placement of any antenna.

- b. Towers and antennas may only be located on existing structures.
 - c. If a Conditional Use permit is granted, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
 - d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
2. Information Required. Each applicant requesting a Conditional Use permit under this article shall submit a scaled site plan and a scaled elevation **view** and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this article.
3. Factors Considered in Granting Conditional Use Permits. The governing authority shall consider the following factors in determining whether to issue a Conditional Use permit, although the governing authority may **waive** or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this article are better served thereby.
- a. Height of the proposed tower.
 - b. Capacity of the tower structure for additional antenna equipment to accommodate expansion, or to allow for co-location of another provider's equipment.
 - c. Proximity of the tower to residential structures and residential district boundaries;
 - d. Nature of uses on adjacent and nearby properties;
 - e. surrounding topography;

- f. Surrounding tree coverage and foliage;
 - g. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - h. Proposed ingress and egress;
 - i. Availability of suitable existing towers and other structures as discussed in Section E.4. of this article.
4. Availability of suitable Existing Towers or Other Structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
- a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

5. Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a Conditional Use permit is required; provided, however, that the governing authority may, reduce the standard setbacks and separation requirements if the goals of this article would be better served thereby.

a. Towers must be set back a distance equal to the height of the tower from any off-site residential structure, or any parcel of land zoned residential.

b. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.

6. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a Conditional Use permit is required; provided, however, that the governing authority may **waive** such requirements if the goals of this article would be better served thereby.

a. Tower facilities shall be landscaped with a mixture of deciduous and evergreen trees and shrubs that effectively screens the **view** of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet **wide** outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

F. **REMOVAL OF ABANDONED ANTENNAS AND TOWERS.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the governing authority may remove such antenna or tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed. If there are two or more users of a

single tower, then this provision shall not become effective until all users cease using the tower.

Section 2: The several sections of this ordinance are declared to be severable. If any section shall be declared by a decision of a court ;of competent jurisdiction to be invalid, such decision shall not affect the validity of other portions of the ordinance.

Section 3: This ordinance shall take effect and be in full force from and after the date of its passage and publication according to law.

Adopted by the Board of Supervisors of the Town of Farmington.