

Kittson County, Minnesota

**KITTSOON COUNTY TOWER AND
WIND ENERGY SAFETY ORDINANCE**

THIS ORDINANCE IS ADOPTED THIS 4th DAY OF FEBRUARY, 2014, TO ENCOURAGE THE SAFE SITING, ERECTION, AND MAINTENANCE OF COMMUNICATION TOWERS, METEOROLOGICAL TOWERS, AND WIND ENERGY GENERATION TURBINES FOR THE INTERESTS OF GENERAL AVIATION, AGRICULTURAL AVIATION, AND THE OVERALL HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF THE COUNTY. THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF KITTSOON ORDAINS:

SECTION 1. TOWER FACILITIES ORDINANCE

A. Intent and Purpose.

The purpose of this tower facilities ordinance is to ensure such facilities are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare of persons in the area surrounding such tower facilities, and for both public and private property within the jurisdiction of Kittson County.

B. Applicability.

It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any tower facility without first receiving permit(s) from the Kittson County Planning and Zoning Office. Nor may any person, firm or corporation alter, modify, transform, add to or change in any way an existing tower facility without first receiving permit(s) from the Kittson County Planning and zoning Office.

C. Definitions.

1. **Antenna.** Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omnidirectional antenna such as whip-antenna.
2. **Conditional Use.** A land use or development as defined by ordinance that would not be appropriate generally but may be

allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use of development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.

3. **FAA.** Federal Aviation Administration
4. **FCC.** Federal Communication Commission.
5. **Guyed Wire Tower.** A tower constructed *with* guyed wires and ground anchors.
6. **Height.** The height of the tower is the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.
7. **Self Supportive/Monopole Tower.** A single, self-supportive tower, constructed *without* guyed wires.
8. **Temporary Tower.** Any structure that is erected for less than 24 months and is designed and constructed for the purpose of supporting one or more antennas or data collection equipment.
9. **Tower.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas or data collection equipment. This does include towers associated with wind energy generation facilities.
10. **Tower Facility.** Any structures that may include a tower, turbine, antenna(s), equipment building(s), anchor points and other related equipment used by broadcast services and/or wireless telecommunications services and/or data collection devices.
11. **Wireless Telecommunication.** Any ground or roof mounted structure built for the purposes of supporting, elevating or attaching antenna(s) for broadcasting of cellular, personal communications, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services. For all sections of this Ordinance, wireless telecommunication shall not be considered a public utility.

12. **Turbine.** Any structure that is designed and constructed primarily for the purpose of generating electricity from wind energy.

D. Exemptions.

1. The following will be generally allowed as exemptions within Kittson County *without* having to make application or meeting the general standards of this article:
 - a. Antenna(s) incidental to residential use
 - b. Routine maintenance of existing tower facilities or modification of lighting to meet the standards set forth by this ordinance.
 - c. The addition of antenna(s) to a tower facility that meet the standards of this article and do not increase the height of the tower facility.
 - d. Non-commercial amateur radio towers under 60 feet.
2. **Existing Permitted Tower Facilities.** Any existing permitted tower facility is considered to be in compliance with this ordinance and can be re-constructed or repaired to its original condition without obtaining a new conditional use permit.
3. **Existing Non-Permitted Tower Facilities.** Any existing non-permitted tower facility cannot be moved or altered without complying with the requirements of the current ordinance.
4. **Turbines Exempt From Painting/Lighting.** Turbines are exempt from General Standard F-3 (below).

E. Conditional Use Permits.

All towers not defined as exempt shall require a Conditional Use Permit.

F. General Standards.

All tower facilities located within Kittson County shall comply with the following standards:

1. Setbacks.

- a. The tower facility shall have a *minimum* distance to the parcel and/or recorded easement boundary, equal to 1.1 times the height of the tower plus ten (10) feet.
- b. Tower facilities exceeding 200 feet in height must not be located closer than 1,000 feet from any seasonal or occupied dwelling, except with a variance.
- c. No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public easement, public street, highway, public waters (county ditches, small creeks), or sidewalk without approval of proper political subdivision.

2. Signage. The owner's name, telephone number and site ID number shall be posted on the tower base if not surrounded by a fence or on the main gate if surrounded by a perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except applicable warning and equipment information as required by the manufacturer or by Federal, State or local authorities.

3. Lighting/Painting. Tower facility owner shall reduce the impact of current and future obstruction lighting requirements, as much as technology, and FAA and FCC rule will allow. Visual impact shall be reduced by the use of techniques such as, but not limited to, directional lighting, tilting, shields, etc. Maximum intensity of lighting, if necessary, shall be the minimum required by FAA and/or FCC.

- a. The tower facility shall be painted aviation red and white, alternating at 20% increments of total tower height, starting with aviation orange at the top of the tower.
- b. **Guyed Wire Tower.** All guyed wire towers must be painted aviation red and white, alternating at 20% increments of total tower height, starting with an aviation orange at the top of the tower. The perimeter or most exterior wire extending from each ground anchor point shall be equipped with a minimum of three visibility balls, placed as follows: A lower visibility ball at a height of ten feet (10')

above ground level; an upper visibility ball at a height of fifteen feet (15') below the top of the tower; a middle visibility ball, centered on the guyed wire between the upper and lower visibility balls.

- c. For all towers constructed at a height exceeding 200 feet, there shall be affixed to the top of the tower a red flashing or strobe light, which light must conform to all rules and regulations of the FAA.
- d. **Penalty.** After written notification by the county, the conditional use applicant will be allowed 10 days to come into compliance with the FAA/FCC lighting and painting regulations. For each day that this is not met, the applicant will be charged \$100.00 per day.
- e. For towers subject to aviation safety regulations by the FAA or any other Federal regulation agency, or subject to any aviation safety regulation by any State agency, in the event those regulations are more restrictive than the regulations set forth in this subdivision "**F. General Standards,**" then those more restrictive regulations, where they are inconsistent or overlapping, shall apply. However, where said additional regulations are less restrictive, those additional regulations shall not supersede the requirements set forth in this subdivision.

G. Permit Application Requirements:

Application for a Conditional Use Permit shall be submitted pursuant to the requirements of this chapter and shall be accompanied by the following:

- 1. Site Plan for the proposed tower facility site, which shall include the following:
 - a. Graphic scale of the plan, not less than one inch (1") to twenty feet (20')
 - b. North directional arrow
 - c. Location and size of the proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas.
 - d. Building setback lines.

- e. The location of watercourses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site.
 - f. Location of special features located within the site.
 - g. All tower facilities shall be adequately insured for injury and property damage caused by collapse of the tower. A Certificate of Insurance shall be filed with the Planning and Zoning Office prior to commencing operation of the facility.
 - h. If proposed removal of natural vegetation consists of one acre or more, an MPCA Storm Water Permit must be obtained and verification of application shall be on file with the Planning and zoning Office.
2. Vicinity map showing land uses and existing residences and businesses within one-half (1/2) mile of the proposed tower facility. (Please attach aerial photo)
 3. If erection of the tower or construction of any tower facility will disturb any part of a bluff or a steep slope, the applicant shall provide an erosion control plan prepared by a landscape architect or professional engineer.
 4. A copy of the FAA determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
 5. A financial responsibility plan, which may include a bond or other financial undertaking, indicating how the applicant will assure that the costs of decommissioning the site will not fall to the County or other units of government.

H. Routine Maintenance.

All tower facilities shall be maintained in a safe and clean manner. The tower facility owner/operator shall be responsible for maintaining a graffiti, debris and litter free site.

I. Time Limit On Tower Facility Construction.

Construction of an approved tower facility must be completed within one year of application.

J. Unused or Abandoned Tower Facility.

The owner of a tower facility shall file an annual notification in writing to the Planning and Zoning Office as to the current ownership of every tower facility constructed. Failure to do so shall be determined to mean that the tower facility is no longer in use and considered abandoned. A tower is also considered abandoned if owner fails to pay fees as required by the ordinance.

K. Removal.

A tower must be removed by the current landowner within one hundred eighty (180) days of abandonment, unless the Kittson County Zoning Administrator provides a written exemption. Removal includes the complete tower facility including related infrastructures, footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and restoration to pre-existing vegetative cover. Failure to do so shall be just cause for Kittson County to seek legal avenues that will remove the tower facility and restore the site.

L. Severance Clause.

If any part of this section is rendered void, invalid, or unenforceable, such rendering shall not effect the validity and enforceability of the remainder of this section unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire section.

M. Applicable Fees.

All tower facilities constructed or erected within Kittson County shall be subject to applicable fees. These fees are set forth by the County Commissioners. These fees will include, but are not limited to the following:

1. Building Permit Application
2. Conditional use Application
3. Tall structure (tower/turbine) Fee.

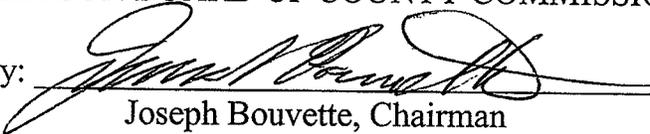
N. Applicability.

Kittson County has, by adoption of this Ordinance, established and has determined that the boundaries of the Tower and Wind Energy Safety Ordinance to be all areas within Kittson County except: no exceptions. The Board may terminate, re-establish, enlarge, revise or alter the control area so established by amendment of this Ordinance.

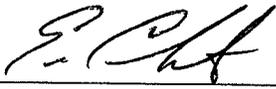
This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and Approved this 4th day of February, 2014, by:

KITTSOON BOARD OF COUNTY COMMISSIONERS

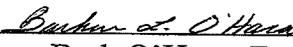
By: 
Joseph Bouvette, Chairman

ATTEST:


Eric Christensen, County Administrator

RECOMMENDED BY THE COUNTY PLANNING COMMISSION:

Dated this 4th day of February, 2014.


Barb O'Hara, Zoning Administrator