

**ORDINANCE NO. 020623-02**

**An Ordinance Amending Communication Tower Ordinances as set forth in Chapter 18 of the Municipal Code for The Village of Fontana-on-Geneva Lake**

The Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

**SECTION 1.** Creating Section 18-27 (c)(29) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-27 (c)(29) Communication tower.

**SECTION 2.** Creating Section 18- 28 (c)(5) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18- 28 (c)(5) Communication tower.

**SECTION 3.** Creating Section 18- 29 (c)(3) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-29 (c)(3) Communication tower.

**SECTION 4.** Creating Section 18- 30 (c)(3) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

18-30 (c)(3) Communication tower

**SECTION 5.** Creating Section 18- 31 (c)(3) of the Municipal Code of the Village of Fontana-on-Geneva Lake as, follows:

Section 18-31 (c)(3) Communication tower.

**SECTION 6.** Creating Section 18- 32 (c)(3) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-32(c)(3) Communication tower.

**SECTION 7.** Creating Section 18- 33 (c)(3) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-33(c)(3) Communication tower.

**SECTION 8.** Creating Section 18- 34 (c)(8) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-34(c)(8) Communication tower.

**SECTION 9.** Creating Section 18- 35 (c)(6) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-35(c)(6) Communication tower.

**SECTION 10.** Creating Section 18- 36 (c)(9) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-36(c)(9) Communication tower.

**SECTION 11.** Creating Section 18- 37 (c)(10) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-37(c)(10) Communication tower.

**SECTION 12.** Creating Section 18- 38 (c)(3) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-38(c)(3) Communication tower.

**SECTION 13.** Creating Section 18- 39 (c)(15) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-39(c)(15) Communication tower.

**SECTION 14.** Creating Section 18- 40 of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-40 (d) Communication towers are a principal land use permitted as a conditional use in the Resort Business district and subdistricts.

**SECTION 15.** Creating Section 18-41(c)(8) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-41(c)(8) Communication tower.

**SECTION 16.** Creating Section 18-42(c)(18) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-42(c)(18) Communication tower.

**SECTION 17.** Section 18-54, Table of land uses, is hereby repealed and recreated to add the Communications tower conditional use, as follows:

Agricultural Holding (AH-35)	Lakefront Residential (LR-O)	Exurban Residential (SR-1)	Estate Residential (SR-2)	Neighborhood Residential (SR-4)	Village Residential (SR-5)	Attached Residential (AR-6)	Multi-Family Residential (MR-8)	Multi-Family Residential (MR-12)	Institutional (IN)	Neighborhood Business (NB)	Village Center (VC)	Community Business (CB)	Resort Business (RB)	Office Park (OP)	Research Park (RP)	Land Uses Permitted: Refer to the detailed definitions and requirement listed for each land use on the following pages.  P: Permitted by Right  C: Permitted as a Conditional Use  T: Permitted as a Temporary Use
																Industrial Land Uses 18-59(#)
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Communication Tower

**SECTION 18.** Section 18-59 (e) is hereby repealed and recreated, as follows :

(e) *Communication tower.* Any structure that is designed and constructed for the purpose of supporting one or more antennas for communication purposes such as cellular telephones or similar, including self-supporting lattice towers, guyed towers, or monopole towers. Height shall be measured from finished grade to the highest point on the tower or other structure, including the base pad. This definition includes the mobile service support structure, supports, and equipment buildings.

Communication towers shall adhere to performance standards and requirements included in section 18-217.

**SECTION 19.** Section 18-217, Communication tower standards, is hereby repealed and recreated, as follows :

(a) *Purpose.* The purpose of this section is to regulate the placement and maintenance of communication towers, other than Exempt facilities, in order to prevent the creation of nuisances and to promote the healthy, safety and general welfare of the public.

(b) *Applicability.* The requirements of this section apply to all new communications towers, other than Exempt facilities, as described in subsection 18-59(e) of this chapter. Preexisting towers shall not be required to meet the requirements of this Section, other than the requirements of Subsection (c) of this

Section. Towers shall be considered principal uses. A different use on the same lot shall not preclude the installation of a tower on such lot.

(c) **Compliance with Federal Regulations.** Towers shall be erected and installed in accordance with the state electrical code adopted by reference in Section 101-31 et seq., National Electrical Code, Federal Communications Commission, Federal Aviation Administration, and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.

(d) **Review and approval.** Except for Exempt facilities, through both the site plan review process (section 18-245) and the conditional use process (section 18-246), the plan commission shall be responsible and have authority to hear, review, and act upon all proposed communication towers. Submittal and review procedure requirements and other requirements specific to Communication Towers must be consistent with Wis. Stats. 66.0404.

(e) **Permit required.** Except for Exempt facilities, a permit is required for all new Communication Towers or modifications to existing Communication Towers. The permit shall contain all of the following information:

- (1) The name and business address of, and the contact individual for, the applicant.
- (2) The location of the proposed or affected support structure.
- (3) The location of the proposed mobile service facility.
- (4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- (5) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- (6) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

(f) All service carriers and providers that offer or provide any telecommunications services for a fee directly to the public, either within the Village or outside the corporate limits from telecommunications facilities within the Village, and all communication tower owners, shall register and provide to the Village, with each conditional use application the following information below. It shall be unlawful for any personal wireless services carrier or provider who offers or provides services within the Village, or any communication tower owner who owns or operates telecommunications facilities within the Village, to fail to register and provide the information required within thirty (30) days of such request by the Village.

- (1) The identify and legal status of the registrant, including any affiliates.
- (2) The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement.
- (3) A narrative and map description of registrant's existing telecommunications facilities within the Village and adjacent municipalities.
- (4) Such other information as the Building Inspector may reasonably require.

(g) *Collocation requirement.* A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for two additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.

(h) *Placement Requirements.* In addition to all applicable state and federal standards, the following shall apply:

(1) Towers and guyed wires shall be setback from any property line a minimum distance equal to 100% of the height of the communication tower adjacent to zoning districts that permit single-family residential uses. (2) The placement of towers on the roof of existing buildings must maintain a setback from residential zones or properties the same as the building setback required for new buildings.

(3) No communication tower shall be installed closer than one-quarter mile from another communication tower, measured from the base of the tower to the base of the proposed tower, unless it is a tower situated on a multi-tower zoning lot, or credible evidence to a reasonable degree of certainty acceptable to the Plan Commission is submitted showing a clear need for said new tower and the infeasibility of co-locating it on an existing site. For the purposes of this requirement, exempt telecommunications facilities unavailable for co-location shall not be included in the one-quarter mile computation.

(i) *Structural Requirements.* Every telecommunication facility shall be designed and constructed so as to comply with the requirements of Secs. COMM 62.35 to 62.41, Wisconsin Administrative Code, amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes, in effect at the time of construction, and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days, or such time as determined by the Building Inspector to bring such tower into compliance with said codes. Failure to bring such tower into compliance within 30 days or such time as determined by the Building Inspector shall constitute grounds for the removal of the tower or antenna at owner's expense.

(j) *Basic Tower and Building Design.* All new communication towers, except Exempt facilities as defined in subdivision (q) below, shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end all the following measures shall be implemented.

(1) Communication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted by the Village to be otherwise.

(2) Telecommunication support facilities, see (k) Equipment Buildings below.

(3) The Village shall have the authority to require reasonable special design (materials, architectural features and color) of the communication tower where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views and / or community features).

(4) Communication towers shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.

(5) Accessory communication antenna shall be designed to blend with its supporting structure. The color selected shall be one that in the opinion of the Plan Commission will minimize the visibility of the antennas to the greatest extent feasible.

(6) All new communication towers shall be structurally and electrically designed to accommodate at least three (3) separate antenna arrays, unless credible evidence is presented that said construction is economically and technologically unfeasible or the Plan Commission determines that for reasons of aesthetics or to comply with the standards above, a communication tower of such height to accommodate three antenna arrays is unwarranted. Multi-use communication towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights. Parking areas, access roads, and utility easements shall be shared by site users, at fair market rates as determined by customary industry standards, when in the determination of the Plan Commission this will minimize overall visual impact to the community.

(k) Equipment buildings. Equipment buildings, including cabinets, used in connection with commercial communication antennas will be subject to the following conditions:

(1) Any location and impact of the equipment buildings shall be made as minimal as possible so as not to prevent the principal use of the property.

(2) Exterior storage of ground-mounted equipment or materials shall not be permitted.

(3) Equipment buildings or structures may be mounted on the roof of a building provided that such building or structure is placed as unobtrusively as possible (e.g. integrated into the roof design) and/or is screened from view from adjacent roads and properties.

(4) Any ground-mounted equipment building used for accessory equipment must either be screened from view from all adjacent residential and commercial uses and potentially incompatible municipal uses with a bufferyard with a minimum opacity of 0.40, or the equipment building must be constructed with similar materials, style, roof pitch, etc., to complement the architectural character of the surrounding neighborhood.

(5) All ground-mounted equipment buildings shall at a minimum meet the required setbacks of a principal structure for the underlying zoning district and shall meet all applicable building code requirements.

(l) Height Requirements. Except for Exempt facilities, Communication tower height shall be restricted to 200 feet.

(m) Advertising. No form of advertising or identification, or sign is allowed on the tower other than the customary manufacturer identification plate.

(n) Lighting. Tower shall not be artificially illuminated unless required by the FAA or any other applicable authority.

(o) Fencing. A tower shall be enclosed by solid fencing not less than 6 feet in height or a bufferyard with a minimum opacity of 0.40 secured so that it is not accessible by the general public. Fence design, materials, and colors shall reflect the character of the surrounding area.

(p) Color. The wireless communication tower and antennae shall be of a neutral color such as light gray or sky blue except as dictated by the Federal Aviation Administration (FAA) and be designed to minimize visibility and to blend into the surrounding environment. Towers with antennas shall be designed to withstand applicable wind load requirements as prescribed in the Uniform Building Code. Towers and/or antenna systems shall be constructed of, or treated with, corrosive resistant material. A regular maintenance schedule shall be followed.

(q) Exempt Facilities. Publicly owned and operated facilities required in the public interest to provide for and maintain a radio frequency telecommunication system, including digital, analog, wireless or electromagnetic waves for police, fire, and other municipal services.

(r) *Abandonment*. The applicant shall provide a written agreement stating that if the tower, antennas or transmitters are unused for a period exceeding 12 months, the applicant shall remove the tower, antennas or transmitters upon written request from the zoning administrator at no cost to the village within 60 days of such request. If such listed items are not removed within 60 days of such notification, the village may remove the items at the expense of the holder of the conditional use permit. Within 30 days of the date on which the tower use ceases, the permit holder shall provide the commission written notice of the cessation of use.

(s) *Fee required*. An application fee under this section shall be established by resolution. The applicant shall be responsible for all costs exceeding the application fee. In addition, if the plan commission determines it is necessary to consult with a third party in considering factors listed above, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. All fees associated with small wireless facilities must be a reasonable approximation of the objectively reasonable cost associated with maintaining infrastructure or processing an application in accordance with the maximum values set forth by the Federal Communications Commission.

(Ord. No. 090412-02, § 1, 9-4-2012)

**SECTION 20.** Creating Section 18- 331 (c)(6) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-331(c)(6) Communication tower.

**SECTION 21.** Creating Section 18- 332 (c)(6) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-332(c)(6) Communication tower.

**SECTION 22.** Creating Section 18- 333 (c)(6) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-333(c)(6) Communication tower.

**SECTION 23.** Creating Section 18- 334 (c)(52) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-334(c)(52) Communication tower.

**SECTION 24.** Creating Section 18- 335 (c)(6) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-334(c)(6) Communication tower.

**SECTION 25.** Creating Section 18- 336 (c)(2) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-336(c)(2) Communication tower.

**SECTION 26.** Creating Section 18- 338 (c)(8) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-338(c)(8) Communication tower.

**SECTION 27.** Creating Section 18- 339 (c)(12) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-339(c)(12) Communication tower.

**SECTION 28.** Creating Section 18- 340 (c)(6) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-340(c)(6) Communication tower.

**SECTION 29.** Creating Section 18- 341 (c)(22) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-341(c)(22) Communication tower.

**SECTION 30.** Creating Section 18- 342 (c)(20) of the Municipal Code of the Village of Fontanaon-Geneva Lake, as follows:

Section 18-342(c)(20) Communication tower.



**SECTION 31.** Creating Section 18- 343 (c)(14) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-343(c)(14) Communication tower.

**SECTION 32.** Creating Section 18- 344 (c)(24) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-344(c)(24) Communication tower.

**SECTION 33.** Creating Section 18- 345 (c)(29) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-345(c)(29) Communication tower.

**SECTION 34.** Creating Section 18- 346 (c)(32) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-346(c)(32) Communication tower.

**SECTION 35.** Creating Section 18- 347 (c)(13) of the Municipal Code of the Village of Fontana-on-Geneva Lake, as follows:

Section 18-347(c)(13) Communication tower.

**SECTION 36. EFFECTIVE DATE.** This ordinance shall be in full force and effect upon and from its passage, approval, and publication as required by law.

**PASSED AND ADOPTED** by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin this 7<sup>th</sup> day of February, 2023.

VILLAGE BOARD OF THE VILLAGE OF  
FONTANA-ON-GENEVA LAKE

By:   
Pat Kenny, Village President

Attest:   
Drew Lussow, Village Clerk