City of Dyersville
340 First Ave. E.
Dyersville, IA
52040

DELAWARE COUNTY IOWA
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DUBUQUE CO., IOWA FEES $36.00

Preparer Information: Gary A. Jasper 340 1st Ave. E Dyersville 319-875-7724

ORDINANCE NO. 669

**AN ORDINANCE AMENDING CHAPTER 165 (THE ZONING ORDINANCE) OF THE CITY OF DYERSVILLE CODE OF ORDINANCES, BY ADDING A NEW SECTION 165.50 TO ESTABLISH REGULATIONS FOR THE PLACEMENT OF TOWERS AND ANTENNAS.**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DYERSVILLE, IOWA:

**Section 1.** CHAPTER ADDED Chapter 165 (the Zoning Ordinance) of the City of Dyersville Code of Ordinances is hereby amended by adding a Section 165.50 to establish regulations for the placement of towers and antennas as follows:

**165.50 Towers and Antennas.**

**General Statement of Intent.**

The provisions of this section are intended to regulate the location of towers and antennas. The Telecommunication Act of 1996 restructured and deregulated many aspects of the country's communication industry. New wireless telecommunication providers entering the market desire to build a network that may require additional wireless telecommunications towers and antennas mounted on existing buildings and other structures. The purpose of these regulations is to encourage the use of the new technologies while protecting the safety and aesthetics of the community.

**1. Definitions:**

a. Antenna: Any exterior transmitting, reception or receiving devise mounted on a Tower, building or freestanding structure and used in transmission or reception of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

b. Antenna array: a grouping of antennas that encompasses both transmitter(s) and receiver(s) of a single wireless telecommunication provider.

c. Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more Antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The terms also includes radio and television transmission towers, microwave towers, cellular telephone towers, alternative tower structures, and other similar structures, The term includes the structure and any support thereto.

d. Tower height: The distance measured from the grade level at the base of the Tower to the highest point on the Tower, including any antenna mounted on the Tower.

e. Support facilities: Support buildings, boxes, cabinets or similar structures containing electrical or mechanical equipment and developed for the reception or transmission of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

f. ANSI: American National Standards Institute.

g. FCC: Federal Communication Commission.

h. FAA: Federal Aviation Administration.

2. **Applicability**

A. Non-essential Services.

i. Wireless telecommunication towers and antennas shall be regulated pursuant to this ordinance and not regulated as essential service, public utility or private utility.

B. This section shall apply to all towers and antennas except the following:

i. Individually owned residential receive only antennas.

ii. Satellite receiving dishes not larger than five (5) feet in diameter (see accessory structures).

i. Existing or new public safety structures necessary for broadcast of emergency communications or warning sirens operated by governmental subdivisions.

| ZONING DISTRICTS | USE | SETBACKS | HEIGHT | COLOR | LIGHTING |
|---|---|---|---|---|---|
| Agricultural, Residential, Commercial | Conditional Use Permit required | Equal to the height of the tower in all directions. | Single users -- not more than 75 feet.<br><br>Two or more users-- not more than 150 feet. | Towers shall be finished in a neutral color to reduce visual impact subject to applicable FFA regulations. | No lighting of tower unless required by FAA or other governmental regulations. |
| Industrial | Permitted Use | | Height allowed by district in which tower is located. | | |

**3. Towers.**

a. No Tower, and their associated support facilities, shall be constructed, except in accordance with the following requirements:

b. Applicants proposing to construct a tower higher than allowed by Subsection (a) may apply for a variance to the Zoning Board of Adjustment.

c. Guys and support facilities must comply with setback requirements for the district in which they are located.

d. Towers are prohibited in any Public Parks or Recreation areas.

e. Towers are prohibited within 1,000 feet of any historically

designated sites.

f. Application requirements for site plan review.

Site plans for Towers shall be considered a major site plan. The following information shall be submitted with the site plan:

- site and landscape plans drawn to scale;
- a report, including a description and visual depiction of the Tower, with technical reasons for its design and an explanation of why existing Towers or other structures cannot be utilized;
- engineered plans for the structure and foundation;
- the general capacity of the tower, and information necessary to assure that ANSI standards are met;
- a statement of intent on whether excess space will be leased;
- proof of ownership of the proposed site or authorization to utilize it;
- copies of any easements necessary; and
- an analysis of the area containing existing topographical contours.

**4. Antennas.**

1) Antennas, and their essential support facilities, shall be allowed as a permitted use in any zoning district subject to the following:

a. A simple site plan shall be submitted for each Antenna or Antenna Array providing the following information:

- Mounting location of proposed Antenna or Antenna Array on host structure.
- Description of Antenna or Antenna Array height and width, including a photo (if available) or other visual representation.
- Proof of ownership of the proposed site or authorization to utilize it.

b. The antenna does not extend more than thirty (30) feet above the highest point of the host structure.

c. Antennas may be mounted on non-residential structures, including, but not limited to existing towers, traffic signals, street lights, water towers, billboards, telephone tower and emergency signal poles, bridges, and parking deck structures.

d. Antennas or Antenna Arrays shall comply with the maximum height requirement of the zoning district in which they are located. Applicants proposing an Antenna higher than allowed by the zoning district in which it will be located may apply for a variance to the Zoning Board of Adjustment.

e. No Antenna or Antenna Array may, by virtue of this ordinance, occupy, encroach or "overhang" any public right-of-way without the expressed approval of the City of Dyersville.

f. Each Antenna installation shall require a separate building permit.

**5. Support Facilities.**

1) Support facilities shall be of a color and construction that is compatible with surrounding development.

2) Support facilities shall not be more than four hundred (400) square feet of gross floor area and more than twelve (12) feet in height.

3) Setbacks for Support Facilities shall be the same as the setbacks required for other structures in the zoning district in which they are located.

**6. Landscaping and screening requirements for towers and support facilities.**

1) Support facilities and Tower bases shall be landscaped with a buffer of plant materials that effectively screens from view the tower base and any Support Facilities from adjacent property or street. The Plantings installed shall be of a size and species that can achieve a height of six (6) feet and seventy-five percent (75%) opacity within three (3) growing seasons.

2) In locations where the visual impact of the tower and support facilities would be minimal, the landscape requirement may be reduced or waived by the City.

3) Existing mature tree growth and natural land forms on the property shall be preserved to the maximum extent possible. Natural growth around the property perimeter may be considered a sufficient buffer for a proposed Tower and support facilities as determined by the City.

**7. Application requirements for conditional use permits.**

1) An applicant proposing a Tower that requires a conditional use permit for construction in the zoning district for which it is proposed shall submit the following information, in addition to requirements established in this ordinance:

- site and landscape plans drawn to scale;
- a report, including a description and visual depiction of the Tower, with technical reasons for its design and an explanation why existing Towers or other structures cannot be utilized, including pre-approved City owned locations;.
- the general capacity of the Tower and information necessary to assure that ANSI standards are met;
- a statement of intent on whether the excess space will be leased;
- proof of ownership of the proposed site or authorization to use it;
- copies of any easements necessary; and,
- an analysis of the area containing existing topographical contours.

**8. Non-conforming Towers or Antennas**

1) Any existing tower or antenna which becomes non-conforming on the effective date of this ordinance or becomes non-conforming at any future date shall be regulated according to the rules set forth in Section 4-6 of the Zoning Ordinance, except as follows:

a. New Antennas and Support Facilities may be mounted on a non-conforming tower.

b. A non-conforming Tower within one thousand (1,000) feet of an Historic Preservation District shall be considered a legal non-conforming Tower. As such, the Tower may remain until it has been abandoned.

c. Should any lawful non-conforming Tower be destroyed by any means to an extent of more than seventy-five percent (75%) of its

replacement cost at the time of destruction, it may only be reconstructed in conformance with the provisions of this ordinance provided that the destruction was caused by an accident or act of God occurring after the adoption of this ordinance and such reconstruction does not increase the degree of nonconformity that existed prior to destruction.

**9. Abandonment**

1) The operator of a Tower shall provide the City of Dyersville with a copy of the notice to the FCC of intent to cease operations. The operator shall have ninety (90) days from the date of ceasing operations to remove the Tower and Support Facilities.

2) 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 the same within ninety (90) days of issue date of the notice to remove the tower or antenna. A maximum of two (2) twelve (12) month extensions may be granted by the City Coordinator if the tower operator is actively seeking tenants for the subject tower.

3) If the owner of a Tower fails, after notice, to remove the Tower, the City shall begin the civil citation process.

**Section 2.** This ordinance has heretofore been reviewed by City Council of the City of Dyersville, Iowa.

**Section 3.** This ordinance shall take affect immediately upon publication, as provided by law.

PASSED, APPROVED AND ADOPTED THIS 7th day of July, 1999.

Michael J. English, Mayor Pro-Tem

CITY OF DYERSVILLE Iowa CITY SEAL

ATTEST

Susan L. Ertl, City Clerk