

Ordinance No. 2001-1

AN ORDINANCE AMENDING ORDINANCE NO. 1 'ZONING ORDINANCE FOR THE UNINCORPORATED AREA OF FREMONT COUNTY, IOWA' TO PROVIDE FOR A NON-REFUNDABLE FEE FOR ALL SPECIAL USE PERMIT APPLICATIONS UNDER SECTION 14, AND TO PROVIDE FOR A SPECIAL PERMIT APPLICATION FORM AND PROCEDURE FOR PROPOSED WIRELESS TELECOMMUNICATION SERVICE PROVIDER SITES IN FREMONT COUNTY AND PROVIDING STANDARDS FOR THE ISSUANCE OF SPECIAL USE PERMITS IN THE CASE OF WIRELESS TELECOMMUNICATION SERVICE PROVIDER SITES.

(bold text is material added, underlined material is deleted)

SECTION 14.

EXCEPTION, MODIFICATIONS, INTERPRETATIONS AND SPECIAL USES

SPECIAL USES (p. 44 unnumbered paragraph 5)

The Board of Supervisors may by special permit after public hearing, authorize the location of any of the following buildings or uses in the districts and according to regulations specified below. Before approval of any of the following uses, the Board of Supervisors shall refer the application to the County Zoning Commission which Commission shall hold a public hearing and shall be given forty-five (45) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare. Notice of hearing by the Commission shall be given to all property owners within five hundred (500) feet of the boundary of the property on which the special use is to be located by placing a notice in the United States mail at least ten (10) days prior to the hearing. Notices shall contain the time and location of said hearing. . Each application for a special permit shall be accompanied by a check payable to the County Treasurer or a cash deposit in the amount of ten dollars (\$10.00) set in the fee schedule then in effect prescribed by the Zoning Administrator and approved by the Board of Supervisors; to cover the approximate costs of this procedure and under no conditions shall said sum be refunded. for failure of said application to be approved.

Section 14, subsection SPECIAL USES (p.46)

M. Transmitting Stations. "A", "C", and "M" Districts. **Wireless Telecommunication Service Provider Sites.**

- 1. Purpose and Policy. The provisions of this subsection as they pertain to Wireless Telecommunication Service Provider Sites apply to the placement, construction and modification of wireless telecommunication service facilities (hereinafter, WTSP facilities).**

This subsection is to complement the purpose set forth in Section I. A. of the Ordinance, "To provide land use planning for the orderly growth of the County, and to enhance the beauty of its natural resources." To that end, the Board of Supervisors

finds it is in the best interests of the County to set forth the criteria for construction, placement and modification of WTSP facilities, so as to protect the wildlife, scenic beauty and the character and appearance of the Loess Hills and the rest of the County and to preserve property values and the pleasures of life throughout the County by the avoidance of visual clutter and pollution. Further, it is the purpose to balance the implementation of WTSP facilities with the preservation of the character, view corridors and aesthetics found within the County. It is the intent of these provisions not to unreasonably discriminate among functionally equivalent services, not to have the effect of prohibiting the provision of personal wireless or any other telecommunication services, and to comply in all respects with regard to federal and state law. Further, it is the intent to preserve the zoning authority of Fremont County over all decisions regarding placement, construction and modification of WTSP facilities, thereby to minimize the number or of towers throughout the County by joint use and collocation of the facilities, to minimize the adverse impacts of towers and antennas, and to enhance the ability of Wireless Telecommunication Service Providers to furnish services to the County quickly, effectively and efficiently.

2. **Definitions.** For the purpose of this subsection, the following definitions shall apply:
 - a. “WTSP facility” shall mean the antenna structure including foundations, antenna and other appurtenances, buildings and fences for which the permit is sought by the applicant.
 - b. “abandon” shall mean, (1) the failure to use or operate the WTSP facility for the purpose for which a permit was issued over a period of 90 or more consecutive days or any period of 180 non-consecutive days during any period of 365 days; (2) the construction of any WTSP facility without a permit lawfully issued under this Ordinance; (3) use of any WTSP facility contrary to or inconsistent with the purposes and policy and requirements of the Ordinance; and (4) the failure to maintain the bond required by subsection 4.h.
 - c. “collocation” means the use of a common site by two or more WTSP license holders or by one such license holder for more than one type of communication technology.
 - d. “guyed tower” means a tower which is tied to the ground or other surface by diagonal cables or by similar means.
 - e. “lattice tower” means a self-supporting structure with multiple legs and cross-bracing of structural steel or other material.
 - f. “mono-pole” means a self-supporting mount with a single shaft.
 - g. “shared-use” means the common use by one or more WTSP license holders on the same structure, e.g., the same building, the same tower.
 - h. “tower height” means the greatest vertical distance from the ground level to the highest point of the WTSP facility, including the antenna and any other appurtenances.
 - i. “view-corridor” means scenic views of natural and built areas, including homes, tree-covered and open areas, crop ground and other areas of local or regional significance.

3. **Permit-application.** To obtain a permit for a WTSP facility;
- a. A licensed wireless telecommunication service provider must be the applicant or co-applicant, (singularly or collectively, hereinafter, the applicant) for a permit under this section.
 - b. The application for a permit to construct a WTSP facility shall include as exhibits to the application:
 - (1) Site and landscape plans drawn to scale.
 - (2) A description of the facility, the antenna and other telecommunications accessories, tower and mount including but not limited to,
 - (a) A scale drawing which includes its relationship to the tallest of any other structure within 500 feet.
 - (b) Dimensions.
 - (c) Lighting.
 - (d) Security, including but not limited to fencing
 - (e) Documentation establishing the structural integrity of the tower as well as specifications relevant to the antenna, e.g., type and range, and other telecommunication accessories.
 - c. An area map, for which the center shall be the tower site and the radius not less than 5 miles, identifying every WTSP facility within the area and every occupied home within one-half mile of the tower site. Further, the map shall show all view-corridors up to one mile from the tower site.
 - d. A statement of purpose for which the WTSP facility will be used.
 - e. A statement with supporting technical documentation whether the height of the tower for which the permit is being sought can or can not be built to a lesser height than ⁽³²⁵⁾200 feet to satisfy its function in the grid system. The Zoning Administrator may retain a technical expert to verify the height relative to the WTSP facility's function in the grid system, the expense to be paid by the applicant.
 - f. A statement as to the necessity, collocation and shared-use.
 - (1) The applicant shall demonstrate in writing and by using technological evidence that the WTSP facility for which the permit is sought must be located where it is proposed in order to satisfy its function in the grid system. The Zoning Administrator may retain a technical expert to advise the Zoning Commission with regard to the necessity of the proposed location, the expense to be paid by the applicant.
 - (2) Collocation and shared-use shall be preferred over the construction of new WTSP facilities. The applicant shall provide a written statement as to the feasibility of collocation and shared-use as they apply to its function in the grid system. Such statement shall demonstrate the efforts by the applicant for collocation and shared-use. In the event the applicant alleges either collocation or shared-use or both are not feasible, the applicant shall submit a written statement setting forth the reasons therefor. The Zoning Administrator may retain a technical expert to advise the Zoning Commission with regard to any question of feasibility, the expense to be paid by the applicant.

g. The Zoning Administrator may require additional information of the applicant in order to carry out the Purpose and Policy set forth in Section I. A. and the requirements of this subsection.

4. Standards for Special-Use Permit

- a. **Tower Type.** Any tower of a WTSP facility for which a permit is sought under this ordinance shall be either mono-pole or lattice. Guyed towers are prohibited.
- b. **Tower Height.** The tower height of a WTSP facility shall be less than 320 feet.
- c. **Mount.** An antenna or any other telecommunication accessory may be mounted on the top or side of a building.
- d. **Lighting.** Lighting on any WTSP facility shall be no more than the minimum standards prescribed by the FAA. Only white strobe lights should be used at night, and these shall be the minimum number, minimum intensity, and minimum number of flashes per minute allowed by the FAA. The use of solid red or pulsating red warning lights are prohibited.
- e. **Design and Availability for Shared-Use.** The WTSP facility for which the permit is sought must be designed for and made available for shared-use. The applicant shall file a statement as to whether the WTSP facility will be available for shared-use and if not, the reasons therefore.
- f. **Set-backs.** WTSP facilities shall be set back from property lines as required by regulations for that zone or one foot for every ten feet of tower height, whichever produces the greater distance.
- g. **Security.** Any WTSP facility for which a permit is sought under this ordinance must be secured by a surrounding fence not less than six feet high, the entrance through which must be kept locked so as to prevent access by unauthorized persons. The tower and any support structures of a WTSP facility must be fitted with anti-climbing devices approved by the manufacturer of the tower. The owner of the WTSP facility shall be strictly liable for any injuries suffered by any person at the WTSP facility, whether that person is authorized or unauthorized access to the tower or the WTSP facility, while engaged in climbing the tower.
- h. **Bond.** The owner of the WTSP facility shall submit and maintain a bond furnished by a qualified bonding company in the amount set by the Zoning Administrator to cover the removal under the circumstances described in subsection 5, Abandonment. The terms of such bond must be approved by the Zoning Administrator prior to issuance of any permit.
- i. The applicant shall demonstrate the satisfaction of the Zoning Commission that the WTSP facility for which the permit is being sought is safe and the surrounding area will not be affected negatively by failure of the structure, falling ice or debris.
- j. A new permit must be obtained for all modifications of structure, purpose or use of any then existing WTSP facility.

5. **Abandonment.** The then owner of the WTSP facility shall submit annually a written statement, under penalty of perjury as to whether or not the WTSP facility for which the permit was sought under this ordinance had been abandoned as defined in the section. Any WTSP facility which is abandoned shall be removed by the then owner within 90 days from the receipt of notice from the Zoning Administrator. No contrac-

tual provision shall avoid this requirement. For the purpose of this provision, the WTSP facility, including but not limited to any tower structure, foundation, fencing and any attendant equipment and buildings located at the site must be removed from the premises upon the termination of the lease of the land or abandonment of the WTSP facility and that land restored to its condition prior to construction of the facility. If the then owner fails to meet the requirements of this section, the Zoning Administrator may undertake the removal after a hearing by the Zoning Commission and finding of abandonment, the cost of which may be assessed against the then owner of the WTSP facility.

6. The Zoning Commission shall promulgate rules and regulations appropriate to hearings and any other matters pertinent under this section. Such rules and regulations shall become effective on the date of their approval by the Board of Supervisors.

Motion to adopt:

Moved by Hickey, Seconded by Aistrop

Roll call: Hickey Keith Hickey aye ~~no~~

Whipple John E Whipple aye ~~no~~

Aistrop: Daniel Aistrop aye ~~no~~

Motion to waive second and third considerations:

Moved by Hickey, Seconded by Aistrop

Roll call: Hickey Keith Hickey aye ~~no~~

Whipple John E Whipple aye ~~no~~

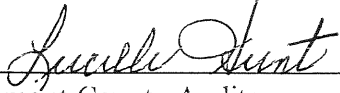
Aistrop: Daniel Aistrop aye ~~no~~

Whereupon the Chairman declared the motion duly carried and the ordinance adopted as follows:

Ordinance No. 2001-1

AN ORDINANCE AMENDING ORDINANCE NO. 1 'ZONING ORDINANCE FOR THE UNINCORPORATED AREA OF FREMONT COUNTY, IOWA' TO PROVIDE FOR A NON-REFUNDABLE FEE FOR ALL SPECIAL USE PERMIT APPLICATIONS UNDER SECTION 14, AND TO PROVIDE FOR A SPECIAL PERMIT APPLICATION FORM AND PROCEDURE FOR PROPOSED WIRELESS TELECOMMUNICATION SERVICE PROVIDER SITES IN FREMONT COUNTY AND PROVIDING STANDARDS FOR THE ISSUANCE OF SPECIAL USE PERMITS IN THE CASE OF WIRELESS TELECOMMUNICATION SERVICE PROVIDER SITES.

I, Lucille Hunt, being duly sworn under oath, hereby state that I am the Auditor for Fremont County, Iowa, and that this is a true and accurate copy of ORDINANCE NO. 2001-1, AN ORDINANCE AMENDING ORDINANCE NO. 1 'ZONING ORDINANCE FOR THE UNINCORPORATED AREA OF FREMONT COUNTY, IOWA' TO PROVIDE FOR A NON-REFUNDABLE FEE FOR ALL SPECIAL USE PERMIT APPLICATIONS UNDER SECTION 14, AND TO PROVIDE FOR A SPECIAL PERMIT APPLICATION FORM AND PROCEDURE FOR PROPOSED WIRELESS TELECOMMUNICATION SERVICE PROVIDER SITES IN FREMONT COUNTY AND PROVIDING STANDARDS FOR THE ISSUANCE OF SPECIAL USE PERMITS IN THE CASE OF WIRELESS TELECOMMUNICATION SERVICE PROVIDER SITES, passed and approved by the Fremont County Board of Supervisors on July 12, 2001. Ordinance 2001-1 will be in effect upon publishing.


Fremont County Auditor

First Reading: July 12, 2001

Second Reading: Waived

Third Reading: Waived

Final Passage: July 12, 2001

Date Published: July 26, 2001