ORDINANCE NO. 13

THE CREATION OF A RAVALLI COUNTY WIRELESS COMMUNICATION FACILITIES ORDINANCE

The facts giving rise to this Ordinance are the citizens of Ravalli County have expressed great concerns over the increase in the number of cellular communication towers and other wireless facilities in Ravalli County. The Ravalli County Commissioners held a legally publicized public hearing on Aug. 31, 2000 and Sept. 14, 2000 for the purpose of taking citizen input on a wireless communication facilities ordinance.

During those public hearings and public comment periods that followed the public hearings, the citizens of Ravalli County have expressed that any proliferation of large communication facility towers and antennas will have an adverse affect on the scenic quality of Ravalli County.

75-15-104, MCA, allows any lawful ordinance or resolution that is more restrictive than the state statutes. 7-1-101, MCA states that a local government unit with self-government powers may exercise any power not prohibited by the constitution, law or charter. These powers include, but are not limited to general power governments. 7-1-1-2, MCA, states a local government with self-government powers may provide any service or perform any functions not expressly prohibited by the Montana constitution, state law or charter.

Accordingly, the BOARD OF COUNTY COMMISSIONERS wishes to adopt by ordinance, the "RAVALLI COUNTY WIRELESS COMMUNICATION FACILITIES ORDINANCE", as attached as Exhibit A, Sections 1.00 through 7.00.

VIOLATIONS OF THIS ORDINANCE ARE PUNISHABLE BY A FINE OF NOT MORE THAN $500.00 OR IMPRISONMENT IN THE COUNTY JAIL NOT TO EXCEED SIX MONTHS, OR BOTH.

The effective day of this ordinance shall be thirty (30) days after the second reading of the ordinance by the Board of Ravalli County Commissioners.

1. Read, adopted, approved and passed this 31st day of August, 2000.
2. Read, adopted, approved and passed this 14th day of September, 2000.

BOARD OF COUNTY COMMISSIONERS

Jack Athowe Jr., Chairman

"Smut" Warren, Member

Alan Thompson, Member

Attest: Clerk & Recorder

EXHIBIT A

RAVALLI COUNTY MONTANA
WIRELESS COMMUNICATION FACILITIES ORDINANCE

Section 1. Purpose
Section 2. Definitions
Section 3. Applicability
Section 4. Standards
Section 5. Application Submittal Requirements
Section 6. Severability
Section 7. Penalties

Section 1 Purpose.

To accommodate the increasing communication needs of Ravalli County residents, businesses, and visitors, while protecting the public health, safety and general welfare and visual environment of the County, this ordinance is established to:

A. Enhance the ability to provide communication services to County residents, businesses and visitors;

B. Simplify the process for obtaining permits for communication facilities, while at the same time protecting the legitimate interests of County residents;

C. Protect the County's natural resources and visual environment from the potential adverse visual effects of communication facilities, through careful design and siting standards;

D. Limit the number of towers needed to serve the County, by requiring facilities to be placed on existing buildings and structures where possible, and requiring co-location of wireless communication providers on existing and new towers.

These standards shall be construed to be consistent with any federal or state standards regulating communication facilities which pre-empt or take precedence over the standards herein. In the event that either federal or state government adopt mandatory or standards more stringent than those described herein, these standards shall be revised accordingly.

Section 2. Definitions.

For the purposes of this Ordinance, the following definitions shall apply:

Antenna: An exterior transmitting or receiving device used in telecommunications that radiates or captures radio frequency signals or electromagnetic waves, including but not limited to directional antenna, such as panels, microwave dishes, and satellite dishes and omni-directional antenna, such as whip antenna, but not including satellite earth stations.

Antenna, Attached: An antenna mounted on an existing building, silo, smokestack, water tower, utility or

power pole, or other support structure other than an antenna tower.

Antenna, Concealed (Stealth): An antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view, in a manner appropriate to the site's context and surrounding environment. Examples of concealed antennas include manmade trees, clock towers, flag poles, lighting structures, and similar structures that camouflage or conceal the presence of antennas or towers.

Antenna Tower: A freestanding structure, including monopole, guyed and lattice towers, designed and constructed primarily to support antennas and transmitting and receiving equipment. The term includes microwave towers, common-carrier towers, cellular telephone towers, and the like. The term includes the structure and any support thereto.

Antenna Tower Height: The distance from the average grade at the antenna tower base to the highest point of the tower. Overall antenna tower height includes the base pad, mounting structures and panel antennas, but excludes lighting rods and whip antennas.

Co-Location: Locating wireless communications equipment for more than one communications provider on a single structure.

Communication Facilities: Communication lines and towers, antennas, and microwave receivers.

Facility (Communication): The equipment, physical plant and portion of the property and/or building used to provide power and communication services, including but not limited to cables and wires, conduits, pedestals, antennas, towers, concealed structures, electronic devices, equipment buildings and cabinets, landscaping, fencing and screening, and parking areas.

Microcell: A low power facility used to provide increased capacity to telecommunications demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility.

Unreasonable Adverse Impact: the proposed project would produce an end result which is:

1. Out of character with the designated scenic, natural, historic, and cultural resources affected, including existing buildings, structures, and features within the designated resource area; and

2. Would diminish the scenic, natural, historic, and cultural value of the designated resource.

Section 3. Applicability.

All communication facilities towers or antennas located within the unincorporated areas of Ravalli County, whether upon private or public lands shall be subject to this Ordinance.

Only the following facilities shall be exempt from the application of this section:

A. Pre-existing towers or antennas. Towers and antennas existing prior to the date of this Ordinance shall not be required to meet the requirements of this section, so long as the pre-existing towers or antennas were in compliance with all applicable permitting requirements in effect at the time of installation and are currently in compliance with all other required approvals, permits, and exceptions.

B. Amateur (ham) and citizen band transmitters or radio stations, antennas and microwave dishes and receivers.

C. Maintenance or repair. Maintenance, repair or reconstruction of a communication facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

D. Emergency Communication Facilities. Temporary communication facilities for emergency communications by public officials.

Section 4. Standards.

All communication facilities must demonstrate compliance with the following standards prior to County approval.

A. Preferred Communication Facilities.

The order of preference for new permanent communication facilities is as follows, from most preferred to least preferred.

1. Co-Location on existing communication facilities - If not technically feasible, then:

2. Antennas attached to existing commercial/industrial buildings or structures - If not technically feasible, then:

3. Concealed Antennas - If not technically feasible, then:

4. Microcell antenna towers - If not technically feasible, then:

5. New Communication Facilities tower.

In addition to the above-listed preferences, it is preferred that any new facilities be located on public lands or structures. No new facilities may be located within any of the Voluntary Zoning Districts.

B. Facilities in Relation to Scenic Viewsheds & Historic/Cultural Resources.

Facilities shall not create an unreasonable adverse impact toward the view from any public park, natural resource area or historic/cultural site. In determining the potential adverse impact of the proposed facility upon such areas, the Land Services Department shall consider the following factors:

1. The extent to which the proposed communication facility is visible from the viewpoint(s) of the impacted resource;

2. The type, number, height and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

3. The amount of vegetative screening;

4. The distance of the proposed facility from the impacted resource; and

5. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

C. Communication Facilities Spacing Requirements.

Antenna towers over 60 feet in height shall be located at least 5,280 feet from any other communication facility over 60 feet in height. Alternative spacing requirements may only be allowed through a variance procedure, and where it can be demonstrated that some hardship exists to prevent compliance with this section.

D. Minimum Setback Requirements.

The minimum setback requirements for communication facilities are as follows:

1. From property lines or road rights-of-way, facilities shall be set back a minimum distance that is equal to or greater than two times the height of the structure.

2. Alternative setbacks may only be approved by the Land Services Department only where it can be clearly demonstrated that the location of the proposed facility will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts.

3. Guy wires and equipment buildings and cabinets shall be set back from all property lines a minimum of twenty (20) feet.

E. Equipment Design.

The following equipment design standards shall apply to all new communication facilities.

1. Attached antennas on a roof may extend up to 15 feet over the height of the building or structure.

2. Attached antennas on a roof shall be located as close to the center of the roof as possible.

3. Attached antennas mounted on a building or structure wall shall be as flush to the wall as technically possible, and shall not project above the top of the wall.

4. Attached antennas and equipment shall be located, painted and/or screened to be architecturally and visually compatible with the building or structure it is attached on.

5. Microcell towers shall be painted or coated in a uniform non-reflective color that blends with the

surrounding built and/or natural environment. The use of wood poles is further encouraged.

6. Communication facility antenna towers shall not be artificially lighted except as required by the FAA or other state or federal agency. If safety lighting is required by the FAA, the use of red beacons is preferred to flashing strobe lights. Security lighting on the site may be mounted up to 20 feet in height, and shall utilize cut-off lighting directed towards the ground to reduce light pollution, prevent offsite light spillage, and avoid illuminating the tower.

7. Equipment buildings shall be compatible with the architectural style of the surrounding built environment considering exterior materials, roof form, scale, mass, color, texture, and character. Equipment cabinets shall be located, painted and/or screened to be architecturally and visually compatible with the surrounding built and/or natural environment.

8. Equipment shall not generate noise in excess of federal, state and local noise regulations. This does not apply to generators used in emergency situations where the regular power supply for a facility is temporarily interrupted.

F. Site Design. All communication facilities shall be designed to blend into the surrounding environment to the greatest extent possible. The following measures shall be implemented:

1. Screening and landscaping appropriate to the context of the site and in harmony with the character of the surrounding environment is required when any part of the facility is visible from a public right-of-way or adjacent residential use. Natural materials shall be used for screening and fencing. Wire fencing, if utilized, shall be screened from public view. If a facility fronts on a public road or abuts a residential use, a combination of hedges and/or evergreen trees (at least 4 feet in height when planted) shall be planted along the roadway or around the facility to provide a continuous visual screen.

2. Existing vegetation and grades on the site shall be preserved to the extent possible.

3. Signage at the site is limited to non-illuminated warning and equipment identification signs. This does not apply to concealed antennas that are incorporated into freestanding signs.

4. Communication facilities shall not include staffed offices, long-term vehicle storage or other outdoor storage, or other uses not needed to send, receive or relay transmissions.

G. Radio Frequency Emission Standards

All existing and proposed communication facilities are prohibited from exceeding or causing other facilities to exceed the radio frequency emission standards specified by Part 1, Practice and Procedure, Title 47 of the Code of Federal Regulations, Section 1.1310, Radio Frequency Radiation Exposure Limits. A statement by

a licensed professional engineer shall be provided demonstrating that the proposed facility complies with all FCC standards for radio emissions.

H. Co-Location Requirements for Communication Facilities

1. Communication facility providers shall cooperate to achieve co-location of facilities and equipment. Communication facility providers shall not act to exclude other providers from co-locating on the same tower when co-location is structurally and technically feasible. Competitive conflicts shall not be considered adequate reason to preclude co-location.

2. In addition to equipment proposed for the applicant's use, proposed communication facilities shall be designed in all respects to accommodate both the applicant's antenna and comparable antenna for at least two (2) additional users if the antenna tower is over 100 feet in height, or for at least one (1) additional user if the antenna is between 60 feet and 100 feet in height.

3. No new tower shall be permitted unless the applicant clearly demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna by co-locating. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of the following:

a. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, and cannot be reinforced to provide sufficient strength.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or structure, or the antenna on the existing towers and structures would cause interference with the applicant's proposed antenna.

e. The fees or costs required to share an existing tower or structure, or to adapt an existing tower or structure for co-location are unreasonable. Costs below new tower development are presumed reasonable.

f. Property owners, or owners of existing towers or structures are unwilling to accommodate the applicant's needs.

g. The applicant clearly demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

I. Abandonment

Communication facilities will be considered to be abandoned if they are unused by all providers at the facility for a period of 180 consecutive days. Determination of abandonment shall be made by the Director of Land Services, who shall have the right to require documentation from the facility owner regarding the tower or antenna usage. Upon determination of abandonment, the facility owner shall have 90 days to:

1. Re-use the facility, or transfer the facility to another owner who will re-use it; or

2. Remove the facility. If the facility is not reused or removed within 90 days of determination of abandonment, the County may remove the facility at the facility and/or property owner's expense.

J. Modification to Existing Facilities

1. Addition of equipment for co-location of additional communication facility providers on existing antenna towers and sites are not subject to additional review if the tower height remains unchanged.

K. Building Codes and Safety Standards

To insure the structural integrity of communication facilities, the owner of a facility shall insure that it is constructed, operated and maintained in compliance with the standards contained in applicable local, state and federal building codes and the applicable standards for telecommunication facilities, as may be amended from time to time. This must be shown through a completed inspection process or certification by an appropriate regulatory agency.

Section 5 Application Submittal Requirements.

A. Application Contents

Applications for review and approval of proposed communication facilities, and additions or modifications to existing facilities, shall include the following:

1. A site plan showing the location and legal description of the site, including the parcel number and geocode numbers and copy of the plat or Certificate of Survey, on-site land uses; adjacent roadways , parking and access; areas of vegetation and landscaping to be added, retained, replaced or removed; setbacks from property lines; and the location of the facility including all related improvements and equipment.

2. A vicinity map showing adjacent properties and land uses within 1,000 feet of the proposed antenna site.

3. Elevation drawings of the proposed facility showing all antennas, towers, structures, equipment buildings and cabinets, fencing, screening, landscaping, lighting, and other improvements related to the facility. Specific colors and materials shall be noted.

4. Photorealistic renderings (photo simulations) of the site after antenna construction, demonstrating the true impact of the antenna on the surrounding visual environment. The Director of Land Services may request photorealistic renderings of the site from a specific vantage point.

5. A report describing the facility and the technical, economic and other reasons for its design and location, the need for the facility and its role in the overall network; and describing the capacity of the structure, including the number and type of antennas it can accommodate.

6. The FAA response to the *Notice of Proposed Construction of Alteration (FAA Form 7460-1)*, if the facility is located near an airport or a flight path.

7. A statement from the applicant verifying that the request has been submitted to the Montana Aeronautics Division for a formal response.

8. A copy of the provider's FCC license verifying that the applicant is authorized by the licensing guidelines of the FCC.

9. A letter of intent to allow co-location on the antenna tower as proposed, if the communication facility if taller than 60 feet in height.

10. A letter of intent to remove the facility at the expense of the facility and/or property owner if it is abandoned. The letter shall include a signed statement by the property owner consenting the County's entry to the property to remove an abandoned facility.

11. Proof of ownership of the land upon which a communication facility is proposed to be constructed, or a copy of an appropriate easement, lease or rental agreement.

12. A statement by a licensed professional engineer shall be provided demonstrating that the proposed facility complies with all FCC standards for radio emissions, and for all applicable local, state or federal building codes.

B. Facility Inventory

The first application for a proposed communication facility by a provider shall include a detailed inventory of all the provider's existing and approved facilities within Ravalli County, and all incorporated areas within the County.

Section 6 Severability

If any part or portions of this Ordinance shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder shall nonetheless continue in effect.

Section 7 Penalties

Any person, firm, or corporation that violates the provisions of this Ordinance shall be guilty of a misdemeanor. Criminal responsibilities of firms or corporations shall be governed by relevant provisions of 45-2-311 and 45-2-312, MCA.

RESOLUTION NO. 1111
Application Fee for Wireless Communication Facilities

WHEREAS, the BOARD OF RAVALLI COUNTY COMMISSIONERS September 14, 2000 adopted the Ravalli County Wireless Communication Facilities Ordinance; and

WHEREAS, it is recognized that a reasonable fee is required to provide for the efficient administration and enforcement of the Ordinance; and

WHEREAS, 7-1-101, MCA, states that a local government unit with self-government powers may exercise any power not prohibited by the constitution, law or charter. These powers include, but are not limited to general power governments.

NOW, THEREFORE BE IT RESOLVED, that the BOARD OF COUNTY COMMISSIONERS adopts by Resolution an application fee for wireless communication facilities of $200.00.

PASSED AND APPROVED THIS 19TH DAY OF SEPTEMBER, 2000.
BOARD OF COUNTY COMMISSIONERS

John M. Atthowe Jr., Chairman

Alan Thompson, Member

"Smut" Warren, Member

Attest: Clerk & Recorder

MONTANA

Ret: Commissioners

RAVALLI COUNTY LAND SERVICES DEPARTMENT
COURTHOUSE BOX 5007, 205 BEDFORD
HAMILTON, MT 59840
406-375-6229

WIRELESS COMMUNICATION FACILITY PERMIT APPLICATION

Owner/Agent Information

Property Owner's Name:_____
Address:_____
_____
Telephone:_____

Agent's Name:_____
Address:_____
_____
Telephone:_____

Property Information

Legal Description of Property: T___R___Section_____
GeoCode:_____ Tax ID #_____

Facility Specifications

Height:_____ Setback:_____
Lighting:_____ Materials:_____
Distance to Nearest Facility:_____
Other:_____
_____

Type of Permit Application

Co-Location:____ Attached Antenna:____ Concealed Antenna:____
Microcell Antenna Tower:____ New Facilities Tower:____

Other Submittal Requirements

Site Plan: _____

Elevation Drawings: _____

Photographic Renderings: _____

Permit Fee ($200.00): Check_____ Cash_____ Money Order_____

Staff Initials: _____ Date: _____

Owner Certification

I hereby certify that all of the above information is true and accurate.

Owner's Signature:_____ Date:_____