

Article XI. Wireless Telecommunication Facilities.Section 20-191. Purpose.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the town Board finds the following regulations are necessary to:

- (a) Facilitate the provision of wireless telecommunication services to the residents and businesses of the Township;
- (b) Minimize adverse visual effects of wireless communications towers through careful design and siting standards;
- (c) Avoid potential damage to adjacent properties from wireless telecommunication tower failure through structural standards and setback requirements;
- (d) Maximize the use of existing and approved towers, buildings and structures to accommodate new wireless telecommunication antennae to reduce the number of towers needed to serve the community; and
- (e) Locate towers to provide maximum benefit to the community as a whole while minimizing community impact.

Section 20-192. Intent.

This Article is intended to regulate wireless telecommunication towers and is not intended to regulate other types of towers such as radio and television antennae, residential satellite dishes or public safety transmitters.

Section 20-193. Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

- (a) Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to, directional antennae, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennae, such as whip antennae.
- (b) Co-location. The placement of a wireless telecommunication antenna by two or more service providers on a tower, building or structure.

- (c) Wireless Telecommunication Services. License commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
- (d) Federal Communications Commission. The Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services, and providers on a national level.
- (e) Guyed Tower. A tower that is supported, in whole or in part, by wires and ground anchors.
- (f) Lattice or Self-Supported Tower. A tower, erected on the ground, that consists of metal crossed strips or bars to support antennae and related equipment.
- (g) Monopole Tower. A single, self-supported pole-type tower, tapering from the base to the top and supporting a fixture designed to hold one or more antennae.
- (h) Public Utility. Persons, corporations, or governments supplying gas, electric, transportation, water or land line telephone service to the general public. For the purposes of this Chapter, wireless communication service facilities shall not be considered public utility uses and are defined separately.
- (i) Service Provider. Any individual or entity that provides wireless telecommunication services.
- (j) Tower. Any ground or roof mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting or supporting an antenna, or antenna for wireless telecommunication purposes that is taller than fifteen (15) feet, including roof antennae.
- (k) Multi-use Tower. A tower to which is attached the antennae of more than one service provider or governmental entity.
- (l) Single-user Tower. A tower to which is attached only the antennae of a single service provider, although the tower may be designed to accommodate the antennae of multiple users as required in this Chapter.

Section 20-194. Permitted and Conditionally Permitted Towers.

- (a) Permitted Towers. The following towers are permitted in all zoning districts if in compliance with the performance standards set forth in this Article:

1. Towers located in the following locations:
  - a. Church sites, when camouflaged as steeples or bell towers.
  - b. Government, schools, utility and institutional sites.
  - c. Wall or roof-mounted towers.
  - d. Towers, other than those listed in Section 20-194 (a) 1 (a-c) are permitted in all zoning districts only upon issuance of a conditional use permit.
- (b) Conditional Use Permit Standards. The following specific standards apply to a conditional use permit for a wireless communication tower. The standards for conditional use permits found in Section 20-213 shall also apply.
  1. If the proposed tower is located in an agricultural, residential, commercial or industrial district, documentation must be included in the application that demonstrates that the tower cannot reasonably be located on a publicly-owned site. If the proposed tower cannot be reasonably located on a publicly-owned site, the applicant must also show that the tower cannot be located on a commercial or industrial site before agricultural or residential sites will be considered. Sites that are located in a Wild & Scenic River Overlay District or Shoreland Overlay District will be considered only if there is no other possible site for locating a tower.
  2. The site must comply with the performance standards set forth in this Article.
  3. No employees of the service providers shall be located on the site on a permanent basis. Employees may be on the site to perform periodic maintenance.
  4. Existing on-site vegetation shall be preserved to the maximum extent practicable.
  5. No outdoor storage shall be permitted on the tower site.

#### Section 20-195. Performance Standards.

All towers erected within the Township must conform to the applicable performance standards contained in this section:

- (a) Co-location Requirements. All towers erected, constructed or located within the Township shall comply with the following requirements:

1. A proposal for a new tower shall not be approved unless the Township Board finds that the wireless telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building or structure due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - b. The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a licensed professional engineer and the interference cannot be prevented at a reasonable cost.
  - c. Existing or approved towers or buildings cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed professional engineer.
  - d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(b) Construction and Maintenance of Towers.

1. Tower and Antenna Design Requirements. Proposed or modified towers and antennae shall meet the following design requirements:
  - a. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by Federal or State authorities such as the Federal Aviation Administration (FAA).
  - b. Towers shall be of a monopole design unless the Township Board determines that an alternative design would better blend in to the surrounding environment. Lattice tower designs may be allowed to facilitate co-location.
  - c. The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams and other designs.
  - d. The base of the tower shall occupy no more than five hundred (500) square feet and the top of the tower shall be no larger than the base.

2. Tower Construction Requirements. All antennae and towers erected, constructed, or located within the Township, and all wiring therefor, shall comply with the following requirements:
  - a. All applicable provisions of this Article must be met.
  - b. Towers shall be certified by a Minnesota licensed professional engineer to conform to current structural standards and wind loading requirements of the Minnesota Building code and the Electronics Industry Association.
  - c. With the exception of necessary electric and telephone service and connection lines approved by the Township, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
  - d. Towers and associated antennae shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
  - e. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
  - f. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
  - g. All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration (OSHA).
3. Tower Setbacks. Towers shall conform with each of the following minimum setback requirements:
  - a. Towers shall be set back from any property line a minimum distance equal to fifty (50) feet and shall be set back a distance equal to the height of the tower when adjacent to a right-of-way.
  - b. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Township Board, to allow integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

- c. The minimum distance to a residential structure shall be the height of the tower plus fifty (50) feet.
  - d. The tower or associated accessory structures shall not encroach upon any public easements.
  - e. The setback shall be measured from a point on the base of the tower located nearest the property line to the actual property line.
4. Height. The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennae or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of any other applicable section of this Article.
5. Height Limitations for Towers.
  - a. In all zoning districts, the maximum height of any tower, including antennae and other attachments, shall not exceed two hundred (200) feet.
  - b. Noncompliance. Noncompliance of characteristics of antennae and towers created by application of this Section shall not in any manner limit the legal use of the property, nor in any manner limit the repair, maintenance, or reconstruction of a noncomplying antenna or tower; however, in no instance shall the degree of noncompliance be increased except as otherwise permitted by this Article.
6. Tower Lighting. Towers shall not be illuminated by artificial means and shall not display high intensity strobe lights (as defined by the FCC) unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
7. Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
8. Accessory Utility Buildings. All utility buildings and accessory structures to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except

where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

9. Abandoned or Unused Towers or Portions of Towers. Abandoned or unused towers or portions of towers shall be removed as follows:
  - a. All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within twelve (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the Township and the costs of removal assessed against the property.
  - b. Unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. The replacement of portions of a tower previously removed shall require the issuance of a new conditional use permit.
10. Antennae Mounted on Roofs, Walls, and Existing Structures. The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved by the Zoning Administrator, provided the antennae meet the requirements of this Article, after submittal of (1) a final site and building plan as specified in this Article, and (2) a report prepared by a professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated. Accessory equipment for wall or roof mounted antennae must be located within the principal building or, if located on the rooftop, must be enclosed.
11. Interference with Public Safety Telecommunications. No new or existing telecommunications service shall interfere with public safety telecommunications. The Township may require that all applications for new service be accompanied by an intermodulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new services or changes in existing service, telecommunication providers shall notify the Township at least ten (10) calendar days in advance of such changes and allow the Township to monitor interference levels during the testing process.
12. Lights and Other Attachments. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required

by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

13. Security Fencing. Towers shall be provided with security fencing to prevent unauthorized entry.

Section 20-196. Application, Building Permits, Fees and Inspections.

- (a) Application. Applications for approval to construct towers shall include information as required in this Article. In addition to the information required elsewhere in this Article, applications for towers shall include the following supplemental information:
  1. A report from a professional engineer that:
    - a. Describes the tower height and design including a cross section and elevation;
    - b. Documents the height above grade for all potential mounting positions for co-located antennae and the minimum separation distances between antennae;
    - c. Describes the tower's capacity, including the number and type of antennae it can accommodate;
    - d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
    - e. Includes an engineer's stamp and registration number; and
    - f. Includes other information necessary to evaluate the application.
  2. A letter of intent committing the tower owner and the owner's successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  3. Applications requiring conditional use permits shall be subject to the requirements set forth for conditional use permits in this Chapter.
- (b) Building Permits.
  1. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, replace, or repair any tower without first

making application to the Zoning Administrator and securing a building permit therefore as hereinafter provided.

2. The applicant shall provide, at the time of application, sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.
  3. Building permits are not required for:
    - a. Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.
    - b. Antennae and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations. Temporary antennae shall be removed within 72 hours following installation.
  4. Before issuance of a building permit, the following information shall be submitted by the applicant:
    - a. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and
    - b. A report from a Minnesota licensed professional engineer that demonstrates the tower's compliance with the aforementioned structural and electrical standards.
  5. Any Township cost of testing or verification of compliance shall be borne by the applicant.
- (c) Fee. The fee to be paid is that prescribed under the Minnesota Building Code and the Township fee schedule as currently adopted.
- (d) Inspections. Towers may be inspected by the Township Building Official to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this Article.

Notice of violations will be sent by registered mail to the owner of the tower and the property upon which it is located who will have thirty (30) days from the date of notification to make repairs. Upon completion of the repairs, the owner shall notify the Building Official that the repairs have been made.

Any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor.

Section 20-198. Interpretation.

It is not the intent of this Chapter to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however, where this Chapter imposes a greater restriction upon the use or premises for antennae or towers than are imposed or required by other ordinances, rules, regulations, or permits, or by covenants or agreements, the provisions of this Chapter shall govern.

Section 20-199. Effect of Ordinance on Existing Towers and Antennae.

Antennae and towers in existence as of April 7, 1998. that do not conform or comply with this Chapter are subject to the following provisions:

- (a) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Article.
- (b) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this section; however, if the cost of repairing the tower to its former use, physical dimensions, and location would be fifty (50) percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Article.

Section 20-200. Titles.

Titles to the subsections of this Article are for convenience only and are not to be considered a part of the provision to which they refer. They may not be used to define or otherwise interpret any particular section of this Article.

Section 20-201. Severability.

If any portion of this Article is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of other portions of this Article.

Sections 20-202 thru 20-205. Reserved.