

**COLUMBIA HEIGHTS  
TOWER SITING  
ORDINANCE NO. 1424**

## Table of Contents

|  |    |
|--|----|
| 1. Purpose .....   | 2  |
| 2. Definitions .....   | 3  |
| 3. Applicability .....   | 6  |
| 4. Exempt from City Review .....   | 7  |
| 5. Permitted Locations .....   | 7  |
| 6. Existing Towers .....   | 8  |
| 7. Co-Location Use, Modification and Relocation of Existing Towers.....                          | 9  |
| 8. Application to Locate Wireless Communications Facility on Existing Tower.....                 | 10 |
| 9. Wireless Communications Facilities on Antenna Support Structures .....                        | 11 |
| 10. Application to Locate Wireless Communications Facility on Antenna<br>Support Structure ..... | 12 |
| 11. Utility Pole-Mounted Wireless Communication Facilities .....                                 | 14 |
| 12. Application for Utility Pole-Mounted Wireless Communications Facility.....                   | 15 |
| 13. Construction of New Towers.....  | 16 |
| a. Conditions of Approval for Wireless Communications Towers.....                                | 16 |
| b. Requirements for Separation Between Towers.....   | 16 |
| c. Standards for Co-Location.....  | 17 |
| d. Tower Design and Type .....   | 18 |
| e. Landscaping Minimum Requirements .....  | 19 |
| f. Visual Impact Standards .....   | 19 |
| 14. Application Process for New Towers .....   | 21 |
| 15. Annual Registration Requirement.....   | 24 |
| a. Wireless Communications Facilities .....  | 24 |
| b. Wireless Communications Towers.....   | 24 |
| 16. General Requirements .....   | 25 |
| a. Duration of Permits .....   | 25 |
| b. Assignment and Subleasing .....   | 25 |
| c. Aesthetics.....   | 25 |
| d. Federal and State Requirements.....   | 26 |
| e. Licenses or Franchise .....   | 26 |
| f. Discontinued Use .....  | 26 |
| g. Abandoned Tower or Antenna.....   | 26 |
| h. FCC Emissions Standards.....  | 27 |
| i. Maintenance.....  | 28 |
| j. Emergency .....   | 28 |
| k. Equipment Cabinets .....  | 29 |
| l. Equipment on Site .....   | 29 |
| m. Inspections .....   | 29 |
| n. Security.....   | 29 |
| o. Advances in Technology .....  | 30 |
| 17. Review of Applications .....   | 30 |
| 18. Appeals.....   | 30 |
| 19. Revocation.....  | 30 |

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUMBIA HEIGHTS, MINNESOTA, REGULATING THE ZONING OF WIRELESS COMMUNICATIONS TOWERS AND WIRELESS COMMUNICATIONS FACILITIES; PROVIDING INTENT AND DEFINITIONS; PROVIDING MINIMUM STANDARDS FOR LOCATION, VISUAL IMPACT AND APPROVAL OF WIRELESS COMMUNICATIONS TOWERS; PROVIDING MINIMUM STANDARDS FOR THE LOCATION, VISUAL IMPACT AND APPROVAL OF WIRELESS COMMUNICATIONS ANTENNAS AND FACILITIES; PROVIDING FOR SHARED USE OF WIRELESS COMMUNICATIONS TOWERS; PROVIDING FOR INSPECTIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Columbia Heights, Minnesota (the “City”) has received numerous inquiries from wireless communications service providers for the location and construction of wireless communications towers in the City; and

**WHEREAS**, 47 U.S.C. § 332(c)(7) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, expressly preserves the zoning authority of local governments relating to wireless communications towers and related facilities; and

**WHEREAS**, the City has a limited number of potential sites that would be acceptable for the installation of wireless communications towers and facilities; and

**WHEREAS**, the citizens of the City have expressed great concern about the location of wireless communications towers and related facilities within the City, related to preserving the residential character of the community, promoting the integrity of the City’s residential neighborhoods and addressing safety issues; and

**WHEREAS**, the limited number of potential wireless communications tower and wireless communications antenna sites requires the City to address the needs of competing wireless service providers; and

**WHEREAS**, City staff and the Planning and Zoning Commission have studied and recommended appropriate siting policies to permit the placement of wireless communications towers and related facilities in locations that will balance the interests of public safety, aesthetics, property values and the provision of wireless communications services by the use of such facilities; and

**WHEREAS**, the City Council has determined that the current zoning provisions within the City Code are inadequate as they relate to compatibility of wireless communications tower siting with surrounding properties, proliferation of towers and encouraging co-location of antennas; and

**WHEREAS**, City staff has drafted amendments to the City Code determined to be necessary to protect the aesthetic, health, safety and welfare concerns found to exist.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA HEIGHTS, MINNESOTA, AS FOLLOWS:

**Section 1.** Section 9.116(16)(a)(ix) of the City Code is hereby repealed.

**Section 2.** Chapter 9 of the City Code is hereby amended to include a new Section 9.615, to read as follows:

**“9.615 Wireless Communications Towers and Antennas.**

- 1) **Purpose.** The purpose of this Section is to provide a uniform and comprehensive set of standards for the development and installation of wireless communications towers, antennas and related facilities. The regulations and requirements contained herein are intended to: (i) regulate the placement, construction and modification of wireless communications towers and related wireless communications facilities in order to protect the health, safety, and welfare of the public and the aesthetic quality of the City; and (ii) encourage managed development of wireless communications infrastructure, while at the same time not unreasonably interfering with the development of the competitive wireless communications marketplace in the City of Columbia Heights.

It is intended that the City shall apply these regulations to accomplish the following:

- a) Minimize the total number of towers throughout the community through siting standards;
- b) Encourage the location of towers in non-residential areas and with compatible uses;
- c) Provide for the appropriate location and development of wireless communications towers, antennas and related facilities within the City, to the extent possible, to minimize potential adverse impacts on the community;
- d) Minimize adverse visual impacts of wireless communications towers and related facilities through careful design, siting, landscape screening, and innovative camouflaging techniques utilizing current and future technologies;
- e) Promote and encourage shared use/co-location of towers and antenna support structures;
- f) Maintain and preserve the existing residential character of the City of Columbia Heights and its neighborhoods and to promote the creation of a convenient, attractive and harmonious community;

- g) Promote the public safety and avoid the risk of damage to adjacent properties by ensuring that wireless communications towers and related wireless communications facilities are properly designed, constructed, modified, maintained and removed;
- h) Ensure that wireless communications towers and related wireless communications facilities are compatible with surrounding land uses;
- i) Encourage the use of alternative support structures, co-location of new antennas on existing wireless communications towers, camouflaged towers, and construction of towers with the ability to locate three or more providers;
- j) Maintain and ensure that a non-discriminatory, competitive and broad range of wireless communications services and high quality wireless communications infrastructure consistent with federal law are provided to serve the community; and
- k) Ensure that wireless communications facilities comply with radio frequency emissions standards as promulgated by the Federal Communications Commission.

This Section is not intended to regulate satellite dishes, satellite earth station antennas, residential television antennas in private use, multichannel multipoint distribution service antennas, or amateur radio antennas.

2) **Definitions.** For the purposes of this Section the following terms and phrases shall have the meaning ascribed to them herein:

- **Accessory Structure** means a structure or portion of a structure subordinate to and serving the principal structure on the same lot.
- **Accessory Use** shall have the meaning set forth in the Land Use and Development Ordinance.
- **Antenna** means a device fabricated of fiberglass, metal or other material designed for use in transmitting and/or receiving communications signals and usually attached to a wireless communications tower or antenna support structure.
- **Antenna Support Structure** means any building or structure, excluding towers, used or useable for one or more wireless communications facilities.
- **Buffer or Buffering** means a natural or landscaped area or screening device intended to separate and/or partially obstruct the view of adjacent land uses or properties from one another so as to lessen the impact and adverse relationship between dissimilar, unrelated or incompatible land uses.

- **City** means the City of Columbia Heights, Minnesota, and any and all departments, agencies and divisions thereof.
- **City Code** means the Columbia Heights City Code, as amended from time to time.
- **City Council or Council** means the Columbia Heights City Council or its designee.
- **City Manager** means the City Manager of the City of Columbia Heights, Minnesota or the City Manager's designee.
- **Co-location** means the use of a single wireless communications tower, antenna support structure and/or site by more than one provider.
- **Conditional Use** means those uses that are generally compatible with other uses permitted in a zoning district, but that require individual review of their location, design, configuration, intensity and structures, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location. This definition shall only apply to this specific Section and shall not apply to other Sections or provisions of the Land Use and Development Ordinance.
- **Conditional Use Permit** means a permit specially and individually granted by the Council after a public hearing thereon by the Planning Commission for any conditional use so permitted in any zoning district. In approving a conditional use permit, the Council may impose reasonable conditions to accomplish the objectives of this Section with respect to use, screening, lighting, hours of operation, noise control, maintenance, operation or other requirements.
- **Equipment Cabinet or Shelter** means a structure located near a wireless communications facility that contains electronics, back-up power generators and/or other on-site supporting equipment necessary for the operation of the facility.
- **Existing Tower** means any tower designated as an existing tower by subsection 6 of this Section for which a permit has been properly issued prior to the effective date of this Ordinance, including permitted towers that have not yet been constructed so long as such approval is current and not expired. After the effective date of this Ordinance, any tower approved and constructed pursuant to the provisions of this Section shall thereafter be treated as an existing tower for purposes of regulation pursuant to this Ordinance and the Land Use and Development Ordinance.

- **Guyed Tower** means a wireless communications tower that is supported, in whole or in part, by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
- **Land Use and Development Ordinance** means Chapter 9 of the Columbia Heights Code, as it may be amended from time to time.
- **Microwave Dish Antenna** means a dish-like antenna used to transmit and/or receive wireless communications signals between terminal locations.
- **Monopole Tower** means a wireless communications tower consisting of a single pole or spire supported by a permanent foundation, constructed without guy wires and ground anchors.
- **Non-Conformity** shall have the meaning given in Minn. Stat. § 394.22, Subd. 8, or successor statutes, and shall be governed by the provisions of the Land Use and Development Ordinance (Non-Conformities).
- **Ordinance** means this Ordinance No. 1424.
- **Panel Antenna** means an array of antennas designed to direct, transmit or receive radio signals from a particular direction.
- **Pico Cell** means a low-power cell whose coverage area extends 300 to 500 yards.
- **Planning Commission** means the Columbia Heights Planning and Zoning Commission.
- **Provider** (when used with reference to a system) means a person or entity that provides wireless communications service over a wireless communications facility, whether or not the provider owns the facility. A person that leases a portion of a wireless communications facility shall be treated as a provider for purposes of this Section.
- **Satellite Dish** means an antenna device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.
- **Self-support/Lattice Tower** means a tower structure requiring no guy wires for support.
- **Stealth or Camouflaged Tower, Equipment Cabinet or Facility** means any wireless communications tower, equipment cabinet or facility designed to hide, obscure or conceal the presence of the tower, antenna, equipment cabinet or other

related facility. The stealth technology used must incorporate the wireless communications tower, equipment cabinet and facility into and be compatible with the existing or proposed uses of the site. Examples of stealth facilities include, but are not limited to: architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and wireless communications towers designed to look like light poles, power poles, trees, flag poles, clocks, steeples or bell towers.

- **Utility Pole-Mounted Facility** means a wireless communications facility attached, without regard to mounting, to or upon an electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar facility located within a public right-of-way or utility easement approved by the Planning Commission. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- **Whip Antenna** means an omni-directional antenna used to transmit and/or receive radio signals.
- **Wireless Communications Facility** means a facility that is used to provide one or more wireless communications services, including, without limitation, arrays, antennas and associated facilities used to transmit and/or receive wireless communications signals. This term does not include wireless communications towers, over-the-air reception devices that deliver or receive broadcast signals, satellite dishes regulated by 47 C.F.R. § 25.104, devices that provide direct-to-home satellite services (“DBS”) or devices that provide multichannel multi-point distribution services (“MMDS”) as defined and regulated by 47 C.F.R. § 1.4000, as amended.
- **Wireless Communications Services** means those services specified in 47 U.S.C. §§ 332(c)(7)(C) and 332(d)(1)-(2), and any amendments thereto.
- **Wireless Communications Tower** means a guyed, monopole or self-support/lattice tower, or extension thereto, constructed as a freestanding structure, supporting one or more wireless communications facilities used in the provision of wireless communications services.
- **Zoning Administrator** means the person appointed by the City Manager as provided in the Land Use and Development Ordinance.

3) **Applicability.** The requirements of this Section apply to the extent provided herein to all new, existing, replacement, re-located or expanded and/or modified wireless communications towers and wireless communications facilities. The requirements of this Section apply throughout the City. It is the express intent of the City to impose, to the extent permitted by applicable law, all requirements of this Section to all land within the

City, whether publicly or privately held, including, without limitation, private property, City property, church property, utility property and school property.

- a) **Non-Essential Services.** Wireless communications towers and wireless communications facilities will be regulated and permitted pursuant to this Section and not regulated or permitted as essential services, public utilities or private utilities.
  - b) **Attempt to Locate on Existing Tower or Antenna Support Structure.** Every owner/operator seeking to locate a wireless communications facility within the City must attempt to locate on an existing wireless communications tower or antenna support structure as required by subsections 7 through 8 of this Section.
- 4) **Exempt from City Review.** The following activities shall be permitted without City approvals:
- a) Amateur Radio - the installation of any antenna and its supporting tower, pole or mast to the extent City regulation is preempted by state or federal law.
  - b) Residential Television Antennas - the installation of residential television antennas in private use to the extent preempted by state and federal law.
  - c) Satellite Dishes – the installation of satellite dishes to the extent preempted by state or federal law.
  - d) Mobile News—the use of mobile services equipment providing public information coverage of news events of a temporary or emergency nature.
- 5) **Permitted Locations.** The following applies to all wireless communications towers, including re-located or expanded and/or modified towers, but not to existing towers:
- a) Wireless communications towers less than 120 feet in height shall be a permitted use in the I-1 and I-2 zoning districts.
  - b) Wireless communications towers greater than or equal to 120 feet in height shall be a conditional use in the I-1 and I-2 zoning districts.
  - c) Wireless communications towers less than 80 feet in height shall be a permitted use in the CBD and GB zoning districts.
  - d) Wireless communications towers greater than or equal to 80 feet in height shall be a conditional use in the CBD and GB zoning districts.
  - e) Wireless communications towers less than 80 feet in height shall only be allowed as a conditional use in the R-1, R-2, R-3, R-4 and LB zoning districts.

- f) Wireless communications towers greater than or equal to 80 feet in height shall not be a permitted use in the R-1, R-2, R-3, R-4 and LB zoning districts.
- g) Except where superseded by the requirements of county, state or federal regulatory agencies possessing jurisdiction over wireless communications towers, equipment cabinets and wireless communications facilities, such towers, equipment cabinets and facilities shall be stealth towers, stealth equipment cabinets and stealth facilities camouflaged to blend into the surrounding environment using stealth technology in a manner pre-approved by the City on a case-by-case basis.
- h) Utility pole-mounted facilities shall be permitted as accessory uses in all zoning districts. Applications for such facilities shall be subject to the conditions set forth in this Section.

6) **Existing Towers.**

- a) Except where otherwise noted, existing towers shall not be rendered non-conforming uses by this Section. The City encourages the use of these existing towers for purposes of co-locating additional wireless communications facilities. Any and all towers erected and in use or approved on or before the effective date of this Ordinance shall be treated as existing towers. These towers shall be considered conforming uses with respect to this Section and the City shall allow co-location on these towers subject to the requirements of subsection 7 of this Section so long as the providers utilize the most visually unobtrusive equipment that is technologically feasible.
- b) Owners of existing towers shall be required to comply with the requirements and procedures set forth in subsections 13 and 14 (“Construction of New Towers” and “Application Process for New Towers”) to replace an existing tower.
- c) Owners of existing towers shall be required to comply with the applicable requirements and procedures set forth in subsections 6, 7, 8 and 13 (“Existing Towers,” “Co-location Use, Modification and Relocation of Existing Towers,” “Application to Locate Wireless Communications Facility on Existing Tower,” and “Construction of New Towers”) to modify or relocate an existing tower or to co-locate a wireless communications facility on an existing tower.
- d) Increases in height of an existing wireless communications tower, modification of an existing wireless communications tower or conversion of an existing wireless communications tower to a stealth or camouflage structure shall be treated as a new tower and subject to all the applicable requirements of this Section.
- e) Owners of existing wireless communications towers shall be required to comply with the requirements set forth in subsection 15 (“Annual Registration”) and subsection 16 (“General Requirements”).

7) **Co-Location Use, Modification and Relocation of Existing Towers.**

- a) Any owner of an existing tower or antenna support structure containing additional capacity suitable for installation or co-location of wireless communications facilities shall permit providers to install or co-locate said facilities on such towers or antenna support structures; provided that no existing tower or antenna support structure shall be used to support wireless communications facilities for more than three separate providers. Any co-location of wireless communications facilities shall be subject to mutually agreeable terms and conditions negotiated between the parties.
- b) Any existing tower may be modified or relocated to accommodate co-location of additional wireless communications facilities as follows:
  - (i) An application for a wireless communications permit to modify or relocate a wireless communications tower shall be made to the Zoning Administrator. The application shall contain the information required by subsection 14(b)-(c) of this Section. The Zoning Administrator shall have the authority to issue a wireless communications permit without further approval by the Council or the Planning Commission, except as provided in this Section. Any denial of an application for a wireless communications permit to modify or relocate a wireless communications tower for purposes of co-location shall be made in accordance with subsection 14(e) of this Section.
  - (ii) The total height of the modified tower and wireless communications facilities attached thereto shall not exceed the maximum height allowed for a permitted wireless communications tower in the zoning district in which the tower is located, unless a conditional use permit is granted by the City.
  - (iii) Permission to exceed the existing height shall not require an additional distance separation from designated areas as set forth in this Section. The tower's pre-modification height shall be used to calculate such distance separations.
  - (iv) A tower which is being rebuilt to accommodate the co-location of additional wireless communications facilities may be moved on the same parcel subject to compliance with the requirements of this Section.
  - (v) A tower that is relocated on the same parcel shall continue to be measured from the original tower location for the purpose of calculating the separation distances between towers as provided herein.

8) **Application to Locate Wireless Communications Facility on Existing Tower.**

- a) An application for a wireless communications permit to locate or re-locate a wireless communications facility on an existing tower must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:
- (i) Name, address and telephone number of the applicant;
  - (ii) Location of the existing tower, along with the tower owner's name and telephone number;
  - (iii) Number of applicant's wireless communications facilities to be located on the subject tower;
  - (iv) A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all other construction standards set forth by the City Code, and federal and state law;
  - (v) An application fee in the amount set by the Council for each wireless communications facility listed on the application;
  - (vi) A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the City;
  - (vii) A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and the supporting tower, topography, and any other information deemed by the City to be necessary to assess compliance with this Ordinance and the Land Use and Development Ordinance;
  - (viii) An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the City or within one mile of the City limits, including specific information about the location, height, and design of each wireless communications facility or tower;
  - (ix) A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of the Land Use and Development Ordinance; and

- (x) A certification that the site described in the application is located on an existing tower and the owner/operator agrees to the co-location of the subject wireless communications facility.
  - b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an existing tower and that satisfies the requirements set forth in this Section, shall receive expedited treatment in the review process.
  - c) So as to further expedite the permitting process and to promote the efficient use of existing sites, the City encourages the users of existing towers to submit a single application for approval of multiple users on a single existing site. Applications for approval at multiple user sites shall be given priority in the review process. The fee to be submitted with a multiple user application shall be the fee specified in this subsection multiplied by the number of users listed in such application.
  - d) A petitioner shall submit any additional information requested by the City for purposes of evaluating the permit request.
  - e) In granting or denying a wireless communications permit to locate or re-locate a wireless communications facility on an existing tower, the Zoning Administrator shall prepare a written record of decision including findings of fact.
- 9) **Wireless Communications Facilities on Antenna Support Structures.**
- a) All wireless communications facilities to be located on antenna support structures shall be subject to the following minimum standards:
    - (i) Wireless communications facilities shall only be permitted on buildings which are at least thirty-five (35) feet tall.
    - (ii) Wireless communications facilities shall be permitted on the City's water tower; provided that the City may impose reasonable conditions which ensure that such facilities do not interfere with access to or maintenance of the tower.
    - (iii) If an equipment cabinet associated with a wireless communications facility is located on the roof of a building, the area of the equipment cabinet shall not exceed ten (10) feet in height, four hundred (400) square feet in area nor occupy more than ten percent (10%) of the roof area. All equipment cabinets shall be constructed out of nonreflective materials and shall be designed to blend with existing architecture and located or designed to minimize their visibility.
  - b) Antenna dimensions.

- (i) Unless a conditional use permit is obtained from the City, whip antennas and their supports must not exceed 25' in height and 12" in diameter and must be constructed of a material or color which matches the exterior of the antenna support structure.
  - (ii) Unless a conditional use permit is obtained from the City, panel antennas and their supports must not exceed 8' in height or 2.5' in width and must be constructed of a material or color which matches the exterior of the building or structure, so as to achieve maximum compatibility and minimum visibility.
  - (iii) Unless a conditional use permit is obtained from the City, microwave dish antennas located below sixty-five (65) feet above the ground may not exceed six (6) feet in diameter. Microwave dish antennas located sixty-five (65) feet and higher above the ground may not exceed eight (8) feet in diameter.
- c) Notwithstanding anything to the contrary, wireless communications facilities and related equipment shall not be installed on antenna support structures in residential zoning districts, unless a conditional use permit is obtained from the City.
  - d) Wireless communications facilities located on antenna support structures, and their related equipment cabinets, shall be located or screened to minimize the visual impact of such facilities and equipment cabinets upon adjacent properties. Any such screening shall be of a material and color that matches the exterior of the building or structure upon which it is situated. Wireless communications facilities and related equipment cabinets shall be of a stealth design, and shall have an exterior finish and/or design as approved by the City.
- 10) **Application to Locate Wireless Communications Facility on Antenna Support Structure.**
- a) An application for a wireless communications permit to locate or re-locate a wireless communications facility on an antenna support structure must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:
    - (i) Name, address and telephone number of the applicant;
    - (ii) Location of the antenna support structure, along with the property owner's name and telephone number;
    - (iii) Number of applicant's wireless communications facilities to be located on the subject property;

- (iv) A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the City Code, and federal and state law;
  - (v) An application fee in an amount set by the Council for each wireless communications facility listed on the application;
  - (vi) A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the City;
  - (vii) A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and the rooftop and building, topography, a current survey, landscape plans, and any other information deemed by the City to be necessary to assess compliance with this Ordinance and the Land Use and Development Ordinance;
  - (viii) An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the City or within one mile of the City limits, including specific information about the location, height, and design of each wireless communications facility or tower;
  - (ix) A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this Ordinance and the Land Use and Development Ordinance; and
  - (x) A certification that the site described in the application is located on an existing antenna support structure and the owner/operator agrees to the location or co-location of the subject wireless communications facility.
- b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an antenna support structure and that satisfies the requirements set forth in this Section, shall receive expedited treatment in the review process.
- c) So as to further expedite the permitting process and to promote the efficient use of existing sites, the City encourages the users of antenna support structures to submit a single application for approval of multiple users on a single existing site. Applications for approval at multiple user sites shall be given priority in the review process. The fee to be submitted with a multiple user application shall be the fee described in this Section multiplied by the number of users listed in such application.

- d) An applicant must submit a proposed stealth design for camouflaging its wireless communications facility, unless this requirement is preempted by the operation of applicable laws or regulations.
- e) A petitioner shall submit any additional information requested by the City for purposes of evaluating the permit request.
- f) In granting or denying a wireless communications permit to locate or re-locate a wireless communications facility on an antenna support structure, the Zoning Administrator shall prepare a written record of decision including findings of fact.

11) **Utility Pole-Mounted Wireless Communications Facilities.**

- a) Utility pole-mounted wireless communications facilities may be permitted as accessory uses in all zoning districts if the provider uses pico cell equipment. Such facilities shall only be permitted in public rights-of-way that are at least 100 feet in width. To the greatest practical extent, utility pole-mounted wireless communications facilities shall be sited where they are concealed from public view by other objects such as trees or buildings. When it is necessary to site such a facility in public view, to the greatest practical extent it shall be designed to limit visual impact on surrounding land uses, which design must be approved by the City.
- b) The height of a utility pole-mounted facility shall not exceed two (2) feet above the pole structure.
- c) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located within the public right-of-way shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes normally located within the right-of-way and shall be located in a manner and location approved by the City. To the greatest practical extent, equipment cabinets associated with utility pole-mounted facilities which are located outside of the public right-of-way shall be concealed from public view or shall be architecturally designed using stealth technology or buffered to be compatible with surrounding land uses, except that such shelters located in residential zoning districts must be screened from the view of residents and pedestrians.
- d) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located outside the public right-of-way shall meet the setback requirements for accessory buildings and structures for the zoning district in which the equipment cabinet is located.
- e) Generators associated with equipment shelters must meet with the requirements of the City Code.

12) **Application for Utility Pole-Mounted Wireless Communications Facility.**

- a) An application for a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:
- (i) Name, address and telephone number of the applicant;
  - (ii) Location of the utility pole-mount, along with the property owner's name and telephone number;
  - (iii) Number of applicant's wireless communications facilities to be located on the subject property;
  - (iv) A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the City Code, and federal and state law;
  - (v) An application fee in the amount set by the Council for each wireless communications facility listed on the application;
  - (vi) A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the City;
  - (vii) A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and utility pole-mount, topography, a current survey, landscape plans, and any other information deemed by the City to be necessary to assess compliance with this Ordinance and the Land Use and Development Ordinance;
  - (viii) An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the City or within one mile of the City limits, including specific information about the location, height, and design of each wireless communications facility or tower;
  - (ix) A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this Ordinance and the Land Use and Development Ordinance; and

- (x) A certification that the site described in the application is located on a utility pole-mount and the owner/operator agrees to the location of the wireless communications facility.
- b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an already existing utility pole-mount and that satisfies the requirements set forth in this Section, shall receive expedited treatment in the review process.
- c) A petitioner shall submit any additional information requested by the City for purposes of evaluating the permit request.
- d) In granting or denying a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility, the Zoning Administrator shall prepare a written record of decision including findings of fact.

13) **Construction of New Towers.**

(a) **Conditions of Approval for Wireless Communications Towers.**

- (i) Setback. The distance between the base of any proposed wireless communications tower, measured from the center of a tower, and the nearest lot line shall be at least equal to the height of the tower, provided that this distance may be reduced to a specified amount if an applicant provides a certification from the tower manufacturer or a qualified engineer stating that the tower is designed and constructed in such a way as to crumple, bend, collapse or otherwise fall within the specified distance.

In no event shall the distance between the base of a proposed wireless communications tower, measured from the center of the tower, and the nearest lot line be less than twenty (20) percent of the tower height.

- (ii) Structural requirements. All wireless communications tower designs must be certified by a qualified engineer specializing in tower structures and licensed to practice in the State of Minnesota. The certification must state the tower design is structurally sound and, at a minimum, in conformance with the City's Building Code, the State Building Code, and any other standards outlined in the Land Use and Development Ordinance, as amended from time to time.
- (iii) Height. The height of permitted wireless communications towers shall be as specified in subsection 5 of this Section.

b) **Requirements for Separation Between Towers.**

- (i) Except for wireless communications facilities located on roof-tops or utility pole-mounted facilities, the minimum wireless communications tower separation distance shall be calculated and applied irrespective of jurisdictional boundaries.
- (ii) Measurement of wireless communications tower separation distances for the purpose of compliance with this Section shall be measured from the base of a wireless communications tower to the base of the existing or approved wireless communications tower.
- (iii) Proposed towers must meet the following minimum separation requirements from existing towers or towers previously approved but not yet constructed at the time a development permit is granted pursuant to this Section:

**MINIMUM TOWER SEPARATION DISTANCE**

| Height of Existing Tower | Height of Proposed Tower | Minimum Separation |
|--------------------------|--------------------------|--------------------|
| Less than 50'            | Less than 50'            | 100'               |
| "                        | 50'-100'                 | 200'               |
| "                        | 101'-150'                | 400'               |
| "                        | 151'-200'                | 800'               |
| 50'-100'                 | Less than 50'            | 100'               |
| "                        | 50'-100'                 | 400'               |
| "                        | 101'-150'                | 600'               |
| "                        | 151'-200'                | 800'               |
| 101'-150'                | Less than 50'            | 100'               |
| "                        | 50'-100'                 | 400'               |
| "                        | 101'-150'                | 600'               |
| "                        | 151'-200'                | 800'               |
| 151'-200'                | Less than 50'            | 100'               |
| "                        | 50'-100'                 | 600'               |
| "                        | 101'-150'                | 800'               |
| "                        | 151'-200'                | 1000'              |

For the purpose of this subsection, the separation distances shall be measured by drawing or following a straight line between the center of the base of the existing or approved structure and the center of the proposed base, pursuant to a site plan of the proposed wireless communications tower.

c) **Standards for Co-location.** This subsection is designed to foster shared use of wireless communications towers.

- (i) Construction of Excess Capacity. Any owner of a wireless communications tower shall permit other providers to install or co-locate antennae or wireless communications facilities on such towers, if available

space and structural capacity exists; provided, however, that no wireless communications tower shall be used to support wireless communications facilities for more than three separate providers. Any co-location of wireless communications facilities shall be subject to mutually agreeable terms and conditions negotiated between the parties. All new wireless communications towers shall be constructed with excess capacity for co-location as follows:

|                               |  |
|-------------------------------|--|
| Less than 80 feet in height   | One additional user  |
| 80 feet to 119 feet in height | Two or more additional users<br>(up to a maximum of three users) |
| 120 feet in height or greater | Three additional users   |

- (ii) Notwithstanding anything to the contrary, all new monopole towers over 80 feet in height and existing monopole towers that are extended to a height over 80 feet shall be designed and built to accommodate at least two providers, and up to a maximum of three providers if technically possible.
- (iii) Notwithstanding anything to the contrary, all new guyed towers, and existing guyed towers that are replaced or modified shall be designed and built to accommodate three providers.
- (iv) Site area. The site or leased footprint shall contain sufficient square footage to accommodate the equipment/mechanical facilities for all proposed providers based upon the structural capacity of the tower.
- (v) Setbacks. If it is determined that a proposed wireless communications tower cannot meet setback requirements due to increases in tower height to accommodate the co-location of at least one additional wireless communications service provider, minimum setback requirements may be reduced by a maximum of fifteen (15) feet, unless such a reduction would decrease the distance between the base of the tower and the nearest lot line to less than twenty (20) percent of the tower height, in which case set-back requirements may be reduced to a distance that is equal to or greater than twenty (20) percent of the tower height.

**d) Tower Design and Type.**

- (i) All proposed wireless communications towers shall be monopole towers or stealth towers. Self-supporting towers or guyed lattice towers shall only be permitted as a replacement of like structures.
- (ii) Utility pole-mounted facilities or extensions on utility poles to accommodate the mounting of wireless communications facilities shall be of the monopole type.

- (iii) Antennas shall be of the uni-cell variety whenever feasible or mounted internal to the wireless communications tower structure.
  - (iv) Stealth wireless communications towers, equipment cabinets and related facilities shall be required in all zoning districts.
- e) **Landscaping Minimum Requirements.** Wireless communications towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from surrounding property. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. Existing mature growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as wireless communications towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. All areas disturbed during project construction shall be replanted with vegetation. The owner of a wireless communications tower is responsible for all landscaping obligations and costs. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Zoning Administrator for approval prior to the issuance of a building permit for the tower. The City may waive the enforcement of this condition if it is deemed unnecessary.
- f) **Visual Impact Standards.** To assess the compatibility with and impact on adjacent properties of a proposed wireless communications tower site, an applicant seeking to construct, relocate or modify a wireless communications tower may be required to submit a visual impact analysis. The requirements of this subsection shall be required for any application to construct a tower greater than 80 feet in height. The applicant may request a review of a proposed wireless communications tower location, prior to submission of an application, to determine whether or not a visual impact analysis will be required. The applicant shall be advised of the requirement to submit a visual impact analysis by the City within ten (10) working days following the City's receipt of the applicant's application for construction of a new wireless communication tower or the relocation or modification of an existing tower.
- (i) Whenever a visual impact analysis is required, an applicant shall utilize digital imaging technology to prepare the analysis in a manner acceptable to the City. At a minimum, a visual impact analysis must provide the following information:
    - a. The location of the proposed wireless communications tower illustrated upon an aerial photograph at a scale of not more than one inch equals 300 feet (1" = 300'). All adjacent zoning districts within a 3,000 foot radius from all property lines of the proposed wireless communications tower site shall be indicated; and

- b. A line of site analysis which shall include the following information:
1. certification that the proposed wireless communications tower meets or exceeds standards contained in this Section;
  2. identification of all significant existing natural and manmade features adjacent to the proposed wireless communications tower site and identification of features which may provide buffering and screening for adjacent properties and public rights-of-way;
  3. identification of at least three specific points within a 2,000 foot radius of the proposed wireless communications tower location, subject to approval by the Zoning Administrator, for conducting the visual impact analysis;
  4. copies of all calculations and a description of the methodology used in selecting the points of view and collection of data submitted in the analysis;
  5. graphic illustration of the visual impact of the proposed wireless communications tower, at a scale that does not exceed 5 degrees of horizontal distance, presented from the specific identified points;
  6. identification of all screening and buffering materials under the permanent control of the applicant (only screening and buffering materials located within the boundaries of the proposed site shall be considered for the visual impact analysis); and
  7. identification of all screening and buffering materials that are not under the permanent control of the applicant but are considered of a permanent nature due to ownership or use patterns, such as a public park, vegetation preserve, required development buffer, etc.
- (ii) Screening and buffering materials considered in the visual impact analysis shall not be removed by future development on the site. However, screening and buffering materials considered in the visual impact analysis shall be replaced if they die.
- (iii) An applicant shall provide any additional information that may be required by the Zoning Administrator to fully review and evaluate the potential impact of the proposed wireless communications tower.

14) **Application Process for New Towers.**

- a) The use of existing structures to locate wireless communications facilities shall be preferred to the construction of new wireless communications towers. To be eligible to construct a new wireless communications tower within City limits, an applicant must establish to the satisfaction of the City that the applicant is unable to provide the service sought by the applicant from available sites, including co-locations within the City and in neighboring jurisdictions; and the applicant must demonstrate to the reasonable satisfaction of the City that no other suitable existing tower or antenna support structure is available, including utility poles; and that no reasonable alternative technology exists that can accommodate the applicant's wireless communications facility due to one or more of the following factors:
  - (i) The structure provides insufficient height to allow the applicant's facility to function reasonably in parity with similar facilities;
  - (ii) The structure provides insufficient structural strength to support the applicant's wireless communications facility;
  - (iii) The structure provides insufficient space to allow the applicant's wireless communications facility to function effectively and reasonably in parity with similar equipment;
  - (iv) Use of the existing structure would result in electromagnetic interference that cannot reasonably be corrected;
  - (v) The existing structure is unavailable for lease under a reasonable leasing agreement;
  - (vi) Use of the structure would create a greater visual impact on surrounding land uses than the proposed alternative or otherwise would be less in keeping with the goals, objectives, intent, preferences, purposes, criteria or standards of this Ordinance, the Land Use and Development Ordinance and land development regulations; and/or
  - (vii) Other limiting factors.
- b) An applicant must submit any technical information requested by the City or its designated engineering consultant as part of the review and evaluation process.
- c) An application for a wireless communications permit to construct a wireless communications tower must be submitted to the Zoning Administrator on the designated form and shall contain, at a minimum, the following information:

- (i) Name, address and telephone number of the applicant;
- (ii) Proposed location of the wireless communications tower, along with all studies, maps and other information required by subsections 13 and 14 of this Section (applicant shall submit information for only one proposed tower per application);
- (iii) Number of applicant's wireless communications facilities to be located on the subject tower and the number of spaces available for co-location;
- (iv) A sworn and certified statement in writing by a qualified engineer that the wireless communications tower will conform to all requirements set forth in the City Code, and federal and state law;
- (v) An application fee in the amount set by the Council;
- (vi) A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the City;
- (vii) A scaled site plan clearly indicating the location, type and height of the proposed wireless communications tower, on-site land uses and zoning, elevation and stealth design drawings of the proposed tower, topography, and any other information deemed by the Zoning Administrator to be necessary to assess compliance with this Ordinance and the Land Use and Development Ordinance;
- (viii) An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the City or within one mile of the City limits, including specific information about the location, height, and design of each wireless communications facility or tower;
- (ix) The names, addresses and telephone numbers of all owners of existing towers or antenna support structures within an area equal to one hundred percent (100%) of the search ring for the wireless communications facility proposed to be located on the proposed new tower;
- (x) Written documentation in the form of an affidavit that the applicant made diligent, but unsuccessful efforts for permission to install or co-locate the proposed wireless communications facility on all existing towers or antenna support structures located within an area equal to one hundred percent (100%) of the search ring for the proposed site of the wireless communications facility;

- (xi) Written, technical evidence from a qualified engineer that the proposed wireless communications facility cannot be installed or co-located on an existing tower or antenna support structure located within the City and must be located at the proposed site in order to meet the coverage requirements of the proposed wireless communications service, together with a composite propagation study which illustrates graphically existing and proposed coverage in industry-accepted median received signal ranges;
  - (xii) A written statement from a qualified engineer that the construction and placement of the proposed wireless communications tower will comply with Federal Communications Commission radiation standards for interference and safety and will produce no significant signal interference with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties; and
  - (xiii) A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this Ordinance and the Land Use and Development Ordinance.
- d) A proposed wireless communications tower that exceeds the height limitations for a permitted tower in the GB, CBD, I-1 or I-2 zoning districts, or any proposed wireless communications tower under eighty (80) feet in the R-1, R-2, R-3, R-4, or LB districts, shall only be allowed upon approval of a conditional use permit. The City Council may establish any reasonable conditions for approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives of this Ordinance and the Land Use and Development Ordinance. Such a conditional use permit shall be required in addition to a wireless communications permit.
- e) In granting or denying a wireless communications permit to construct a wireless communications tower, the Zoning Administrator shall prepare a written record of decision including findings of fact. Proposed wireless communication towers that meet the standards and requirements contained herein, including location and height limitations, may be approved administratively by the Zoning Administrator. Proposed wireless communication towers that do not meet the standards and requirements contained herein, including location and height limitations, may be denied administratively by the Zoning Administrator, provided that the written record of decision including findings of fact is accepted by the Council.

15) **Annual Registration Requirement.**

- a) **Wireless Communications Facilities.** To enable the City to keep accurate, up-to-date records of the location of wireless communications facilities within City limits, on an annual basis, no later than February 1 of each year, or upon change in ownership of wireless communications facilities, the owner/operator of such facilities shall submit documentation to the Zoning Administrator providing:
- (i) Certification in writing that the wireless communications facility conforms to the requirements, in effect at the time of construction of the facility, of the State Building Code and all other requirements and standards set forth in the City Code, and federal and state law by filing a sworn and certified statement by a qualified engineer to that effect. A wireless communications facility owner/operator may be required by the City to submit more frequent certification should there be reason to believe that the structural and/or electrical integrity of the wireless communications facility is jeopardized. The City reserves the right upon reasonable notice to the owner/operator of the wireless communications facility to conduct inspections for the purpose of determining whether the wireless communications facility complies with the State Building Code and all requirements and standards set forth in local, state or federal laws; and
  - (ii) The name, address and telephone number of any new owner, if there has been a change of ownership of the wireless communications facility.

Annual payment of a registration fee, as set by the Council, for each wireless communications facility located within the City shall be submitted to the City at the time of submission of the documentation required above.

- b) **Wireless Communications Towers.** To enable the City to keep accurate, up-to-date records of the location and continued use of wireless communications towers within City limits, on an annual basis, no later than February 1 of each year, or upon change in ownership of a wireless communications tower, the owner/operator of each tower shall submit documentation to the Zoning Administrator providing:
- (i) Certification in writing that the wireless communications tower is structurally sound and conforms to the requirements, in effect at the time of construction of the tower, of the State Building Code and all applicable standards and requirements set forth in the City Code, and federal and state law, by filing a sworn and certified statement by a qualified engineer to that effect. The tower owner may be required by City to submit more frequent certifications should there be reason to believe that the structural and/or electrical integrity of the tower is jeopardized;

- (ii) The number of providers located on the tower and their names, addresses and telephone numbers;
- (iii) The type and use of any wireless communications facilities located on the tower; and
- (iv) The name, address and telephone number of any new owner of the tower, if there has been a change of ownership of the tower.

An annual payment of a registration fee, as set by the Council, for each tower located within the City shall be submitted to the City at the time of submission of the documentation required above.

16) **General Requirements.** The following conditions apply to all wireless communications towers and wireless communications facilities in the City:

- a) **Duration of Permits.** If substantial construction or installation has not taken place within one year after City approval of a wireless communications permit, the approval shall be considered void unless a petition for time extension has been granted by the City Council. Such a petition shall be submitted in writing at least 30 days prior to the expiration of the approval and shall state facts showing a good faith effort to complete the work permitted under the original permit.
- b) **Assignment and Subleasing.** No wireless communications facility, tower or antenna support structure or wireless communications permit may be sold, transferred or assigned without prior notification to the City. No sublease shall be entered into by any provider until the sublessee has obtained a permit for the subject wireless communications facility or tower or antenna support structure. No potential provider shall be allowed to argue that a permit should be issued for an assigned or subleased wireless communications facility or tower or antenna support structure on the basis of any expense incurred in relation to the facility or site.
- c) **Aesthetics.** Wireless communications towers and wireless communications facilities shall meet the following requirements:
  - (i) **Signs.** No commercial signs or advertising shall be allowed on a wireless communications tower or a wireless communications facility.
  - (ii) **Lighting.** No signals, lights, or illumination shall be permitted on a wireless communications tower or a wireless communications facility, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least obtrusiveness to the surrounding community. However, an applicant shall obtain approval from the City if the Federal Aviation Administration requires the addition of standard obstruction

marking and lighting (*i.e.*, red lighting and orange and white striping) to the tower. An applicant shall notify the Zoning Administrator prior to making any changes to the original finish of the tower.

(iii) **Graffiti.** Any graffiti or other unauthorized inscribed materials shall be removed promptly or otherwise covered in a manner substantially similar to, and consistent, with the original exterior finish. The City may provide a wireless communications tower or equipment cabinet owner and/or operator written notice to remove or cover graffiti within a specific period of time or as required by other appropriate sections of the City Code as presently existing or as may be periodically amended. In the event the graffiti has not been removed or painted over by the owner and/or operator within the specified time period, the City shall have the right to remove or paint over the graffiti or other inscribed materials. In the event the City has to remove or paint over the graffiti, then the owner and/or operator of the wireless communications tower or equipment cabinet or structure on which the graffiti existed, shall be responsible for all costs incurred.

d) **Federal and State Requirements.** All wireless communications towers and wireless communications facilities must meet or exceed the standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the state or federal government with the authority to regulate wireless communications towers and facilities. If such standards and regulations change, then the owners of the wireless communications towers and wireless communications facilities subject to such standards and regulations must bring such towers and facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to maintain or bring wireless communications towers and wireless communications facilities into compliance with such revised standards and regulations shall constitute a violation of this Ordinance and shall be subject to enforcement under the City Code. Penalties for violation may include fines and removal of the tower or wireless communications facility at the owner's expense.

e) **Licenses or Franchise.** An owner of a wireless communications tower or wireless communications facility must notify the City in writing within 48 hours of any revocation or failure to renew any necessary license or franchise.

f) **Discontinued Use.** In the event the use of a wireless communications tower or wireless communications facility is discontinued, the owner and/or operator shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

g) **Abandoned Tower or Antenna.** The City may require removal of any abandoned or unused wireless communications tower or wireless communications

facility by the tower or facility owner within thirty (30) days after notice from the City of abandonment. A wireless communications tower or wireless communications facility shall be considered abandoned if use has been discontinued for one hundred eighty (180) consecutive days.

- (i) Removal by City. Where a wireless communications tower or wireless communications facility is abandoned but not removed within the specified time frame, the City may remove the facility or remove or demolish the tower and place a lien on the property following the procedures (but not the criteria) for demolition of an unsafe building/structure of the City's housing code.
  - (ii) Towers Utilized for Other Purposes. Where a wireless communications tower is utilized for other purposes, including but not limited to light standards and power poles, it shall not be considered abandoned; provided, however, that the height of the tower may be reduced by the City so that the tower is no higher than necessary to accommodate previously established uses.
  - (iii) Restoration of Area. Where a wireless communications tower or facility is removed by an owner, said owner, at no expense to the City, shall restore the area to as good a condition as prior to the placement of the tower or facility, unless otherwise instructed by the City.
  - (iv) Surety or Letter of Credit for Removal. Prior to the issuance of a building permit, a surety or letter of credit shall be submitted by the property owner(s) or tower operator(s) to ensure the removal of abandoned wireless communications towers. The surety or letter of credit shall be utilized to cover the cost of removal and disposal of abandoned towers and shall consist of the following:
    - a. submission of an estimate from a certified structural engineer indicating the cost to remove and dispose of the tower; and
    - b. either a surety or a letter of credit, equivalent to one hundred percent (100%) of the estimated cost to remove and dispose of the tower. The form of the surety or the letter of credit shall be subject to approval by the Zoning Administrator and the City Attorney.
- h) **FCC Emissions Standards.** At all times, owners and/or operators of wireless communications facilities shall comply with the radio frequency emissions standards of the Federal Communications Commission.
- (i) Testing required. All existing and future wireless communications facilities shall be tested in accordance with applicable laws and regulations. Such testing, to the extent it is required, shall comply with

standards and procedures prescribed by the Federal Communications Commission.

- (ii) **Inspections.** The City reserves the right to conduct random radio frequency emissions inspections. The cost for such random inspections shall be paid from the wireless communications annual registration fees, unless an owner and/or operator is found to be in non-compliance with Federal Communications Commission RF emissions standards, whereupon the non-compliant owner and/or operator shall reimburse the City in full for the cost of the inspection.
- i) **Maintenance.** All wireless communications facilities, wireless communications towers and antenna support structures shall at all times be kept and maintained in good condition, order, and repair, and, maintained in stealth condition (if stealth or camouflage is a permit requirement). The same shall not menace or endanger the life or property of any person, and shall retain original characteristics. All maintenance or construction on a wireless communications tower, wireless communications facility or antenna support structure shall be performed by licensed maintenance and construction personnel. The City shall notify a provider in writing regarding any specific maintenance required under this Section. A provider shall make all necessary repairs within thirty (30) days of such notification. Failure to effect noticed repairs within thirty (30) days may result in revocation of a tower owner's or provider's permit and/or removal of the tower, wireless communications facility or antenna support structure.
- j) **Emergency.** The City reserves the right to enter upon and disconnect, dismantle or otherwise remove any wireless communications tower or wireless communications facility should the same become an immediate hazard to the safety of persons or property due to emergency circumstances, as determined by the Zoning Administrator or his designee, such as natural or manmade disasters or accidents, when the owner of any such tower or facility is not available to immediately remedy the hazard. The City shall notify any said owner of any such action within twenty-four (24) hours. The owner and/or operator shall reimburse the City for the costs incurred by the City for action taken pursuant to this subsection.
- k) **Equipment Cabinets.** Equipment cabinets located on the ground shall be constructed out of non-reflective materials and shall be screened from sight by mature landscaping and located or designed to minimize their visibility. All equipment cabinets shall be no taller than ten (10) feet in height, measured from the original grade at the base of the facility to the top of the structure, and occupy no more than four hundred (400) square feet in area, unless a waiver is granted by the City upon written request from a provider.
- l) **Equipment On Site.** No mobile or immobile equipment or materials of any nature shall be stored or parked on the site of a wireless communications tower or

wireless communications facility, unless used in direct support of a wireless communications tower or wireless communications facility or for repairs to the wireless communications tower or wireless communications facility currently underway.

- m) **Inspections.** The City reserves the right upon reasonable notice to the owner/operator of a wireless communications tower or antenna support structure, including utility poles and rooftops, to conduct inspections for the purpose of determining whether the tower or other support structure and/or related equipment cabinet complies with the State Building Code and all applicable requirements and standards set forth in local, state or federal law and to conduct radiation measurements to determine whether all antenna and transmitting equipment are operating within Federal Communications Commission requirements.
  - n) **Security.**
    - (i) An owner/operator of a wireless communications tower shall provide a security fence or equally effective barrier around the tower base or along the perimeter of the wireless communications tower compound.
    - (ii) If high voltage is necessary for the operation of the wireless communications tower or antenna support structure, “HIGH VOLTAGE - DANGER” warnings signs shall be permanently attached to the fence or barrier and shall be spaced no more than 20 feet apart, or on each fence or barrier frontage.
    - (iii) “NO TRESPASSING” warning signs shall be permanently attached to the fence or barrier and shall be spaced no more than 20 feet apart.
    - (iv) The letters for the “HIGH VOLTAGE - DANGER” and “NO TRESPASSING” warning signs shall be at least six (6) inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least 4.5 feet above the finished grade of the fence or barrier.
  - o) **Advances in Technology.** All providers shall use and apply any readily available advances in technology that lessen the negative aesthetic effects of wireless communications facilities and wireless communications towers to the residential communities within the City. Every five (5) years, the City may review existing structures and compare the visual impact with available technologies in the industry for the purpose of removal, relocation or alteration of these structures in keeping with the general intent of this Section. Such removal, relocation or alteration may be required by the City pursuant to its zoning power and authority.
- 17) **Review of Applications.** The City shall process all applications for wireless communications towers and wireless communications facilities in a timely manner and in

accordance with established procedures. The reason for the denial of any application filed in accordance with this provision shall be set forth in writing, and shall be supported by substantial evidence in a written record.

- 18) **Appeals.** At any time within 30 days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official in interpreting or applying this Section, except for actions taken in connection with prosecutions for violations thereof, the applicant or any other person affected by such action may appeal the decision in accordance with the provisions of the Land Use and Development Ordinance.
- 19) **Revocation.** A material breach of any terms and conditions of a permit issued for a wireless communications tower or wireless communications facility under this Ordinance and the Land Use and Development Ordinance may result in the revocation by the City of the right to operate, utilize or maintain the particular tower or wireless communications facility within the City following written notification of the violation to the owner or operator, and after failure to cure or otherwise correct said violation within thirty (30) days. A violation of this Section shall be subject to enforcement in accordance with the Land Use and Development Ordinance. Penalties for a violation of a permit or this Section may include fines and removal of the wireless communications tower or wireless communications facility at the owner's expense."

**Section 3.** **CAPTIONS.** The captions throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions of this Ordinance. Such captions shall not affect the meaning or interpretation of this Ordinance.

**Section 4.** **CALCULATION OF TIME.** Unless otherwise indicated, when the performance or doing of any act, duty, matter or payment is required under this Ordinance, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

**Section 5.** **SEVERABILITY.** If any term, condition or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law such that the provision which had been held invalid is no longer invalid, such provision shall thereupon return to full force and effect without further action by the City of Columbia Heights and shall thereafter be binding on the permittee and the City.

**Section 6.** **REPEAL OF LAWS IN CONFLICT.** All City laws and ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of any conflict.

**Section 7.** **INCLUSION IN THE CITY CODE.** The provisions of this Ordinance shall become and be made a part of the City Code of the City of Columbia Heights. The sections of

this Ordinance may renumbered or relettered to accomplish such, and the word “ordinance” may be changed to “section,” “article,” or any other appropriate word.

**Section 8.**    **NO RECOURSE AGAINST THE CITY.** Every permit shall provide that, without limiting such immunities as the City or other persons may have under applicable law, a permittee shall have no monetary recourse whatsoever against the City or its elected officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense or damage arising out of any provision or requirement of this Ordinance or because of the enforcement of this Ordinance or the City’s exercise of its authority pursuant to this Ordinance, a permit, or other applicable law, unless the same shall be caused by criminal acts or by willful gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.

**Section 9.**    **EFFECTIVE DATE.** The provisions of this Ordinance shall become effective upon adoption.

First Reading:            November 13, and November 27, 2000  
Second Reading:        December 11, 2000  
Date of Passage:        December 11, 2000

Offered by:              Szurek  
Second by:                Jolly  
Roll call:                 All ayes

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Mayor, Gary L. Peterson

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Patricia Muscovitz, Deputy City Clerk