

TOWER REGULATION ORDINANCE

Section 1: PURPOSE. The purpose of this ordinance is to accommodate the communication needs of residents and businesses while protecting public health, safety and general welfare of the community. The Town finds that these regulations are necessary in order to:

Subd. 1. Facilitate the provision of wireless communication services to residents and businesses;

Subd. 2. Minimize adverse visual effects of towers through careful design and site standards;

Subd. 3. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

Subd. 4. Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.

Section 2: DEFINITIONS. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

Subd. 1. Antenna. Any structure or device used for the purpose of collecting or transmitting electrical magnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Subd. 2. Commercial Wireless Telecommunication Services. Licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Subd. 3. Public Utility. Persons, corporations, or governments supplying gas, electric, transportation, water, sewer or land lying telephone service to the general public. For the purpose of this ordinance, commercial wireless communication service facilities shall not be considered public utility uses, and are defined separately.

Subd. 4. Tower. Any ground or roof-mounted pole, spire, structure or a combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorologic device, or similar apparatus above grade.

Subd 5. Multi-User Towers. A tower to which is attached the antennas of more than one commercial wireless telecommunications service provider or governmental entity.

Subd. 6. Single-User Towers. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate antennas of multiple users as required by this ordinance.

Subd. 7. Amateur Radio Towers. A tower used exclusively for transmission and reception by an amateur radio operator, which is located on the same property as the radio, and does not exceed 40 feet in height.

Subd. 8. Residential Television Towers. A tower used exclusively for the non-commercial reception of television signals, which is located on the same property as the television(s), and does not exceed 40 feet in height.

Subd. 9. Exempted Dish. A satellite or microwave dish that is two meters or less in diameter and used for reception of signals exclusively for the occupants of the property on which it is located.

Subd. 10. Accessory Utility Buildings. All utility buildings and structures accessory to a tower.

Subd. 11. Building Mounted Antenna. A wireless communications antenna mounted on or attached to the roof or wall of an existing building.

Subd. 12. Commercial Towers. A tower designed or used for commercial wireless telecommunications services, public radio transmission or commercial television transmission.

Section 3: PERMITTED TOWERS. The construction and maintenance of an Amateur Radio Tower, Residential Television Tower or Exempted Dish is a permitted use within any zoning district.

Section 4: PERMITTED PURSUANT TO CONDITIONAL USE PERMIT. The construction and maintenance of a tower shall be permitted within the following zoning classifications, pursuant to a conditional use permit granted in accordance with the Zoning Ordinance.

Subd. 1. Industrial Districts. All permitted towers and antennas.

Subd. 2. Agricultural Districts. All permitted towers and antennas.

Subd. 3. Public Districts. All permitted towers and antennas.

Subd. 4. Business Districts. Building Mounted Antennas, and antennas not attached to a tower.

Section 5: GENERAL PERFORMANCE STANDARDS. All towers shall meet the following performance standards.

Subd. 1. Multi-User Requirements. A proposal for a new commercial wireless communication tower shall not be approved unless the Town finds that the telecommunications equipment plans for the proposed tower cannot be accommodated by an existing or approved tower or building within a two mile search radius of the proposed tower due to one or more of the following reasons:

- a) The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be re-enforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- b) The planned equipment would cause interference materially impacting the useability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
- c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and 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.

Any proposed commercial wireless telecommunication service tower shall be designed (structurally and electronically) in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. The tower must be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at various heights.

Subd. 2. Tower and Antenna Design Requirements. Towers and antennas 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. Commercial wireless telecommunication service towers shall be of a monopole design unless the Town determines that an alternative design would better blend in the surrounding environment or allow for greater future multi-use.

Subd. 3. Landscaping and Screening. The Town may establish, as a condition of approval of a commercial tower, reasonable requirements relating to landscaping and screening to improve the aesthetic appearance of the base of the tower and accessory buildings. Existing on-site vegetation should be preserved to the maximum extent possible.

Subd. 4. Fencing. All commercial towers and accessory buildings shall be enclosed within a galvanized chain link fence with a locked gate to prevent unauthorized entry. The fence shall be at least six feet, but not greater than ten feet, in height. Any fence less than eight feet in height shall be constructed with at least three strands of barb wire strung along the top of the fence.

Subd. 5. Construction Standards. All towers shall be constructed and maintained in accordance with the Electronic Industry Association Standards and all applicable building codes.

Subd. 6. Minimum Spacing. Minimum spacing between commercial tower locations is one-half mile.

Section 6: TOWER SETBACKS. All towers shall conform with the following minimum setback requirements.

Subd. 1. All towers shall be set back from property lines a minimum of 125% of the height of the tower, including all antennas and attachments. The height of the tower shall be measured from the average grade of the property on which it is located or the actual tower height, whichever is greater.

Subd. 2. Buildings accessory to a tower shall comply with the setback requirements of the zone in which the tower is located.

Subd. 3. Commercial towers shall be set back a minimum of 500 feet from schools or structures used as dwellings and a minimum of 300 feet from property zoned for residential use. A change in the use of the property adjacent to an existing commercial tower does not render the tower a non-conforming use, if the tower was in conformance with this ordinance when constructed.

Subd. 4. A tower setback may be reduced or varied, at the sole discretion of the Town, if the variance will facilitate the integration of the tower into an existing or proposed structure, such as a church steeple, light standards, power line support device or similar structure.

Section 7: TOWER LIGHTING. A tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal authority for a particular tower. When incorporated into the design standards of the tower, light fixtures to illuminate ball fields, parking lots or similar areas may be attached to the tower.

Section 8: SIGNS AND ADVERTISING. The use of any portion of a tower for signs other than a warning or equipment informational signs is prohibited.

Section 9: ABANDONED OR UNUSED TOWERS. Abandoned, unused towers or portions of towers shall be removed as follows:

Subd. 1. All abandoned, unused towers and associated facilities shall be removed within 12 months of the cession of operations at the site unless a time extension is approved by the Town. In the event the tower is not removed within 12 months of cession of operations at the site, the tower and the associated facilities may be removed by the Town and the cost of removal assessed against the property.

Subd. 2. Any 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 requires the issuance of a new conditional use permit.

Section 10: INTERFERENCE OF PUBLIC SAFETY COMMUNICATIONS. No new or existing telecommunication service shall interfere with public safety communications. All applications for a conditional use permit for new service shall be accompanied by an intermodulation study which provides the technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of a new service or change in existing service, telecommunication providers shall notify the Town at least forty-eight (48) hours in advance of such changes and allow the Town to monitor interference levels during the testing process.

Section 11: CONDITIONAL USE APPLICATION SUBMITTAL. In addition to the information generally required to accompany a request for a conditional use permit as found in the Zoning Ordinance, applications for towers shall include the following supplemental information:

- a) A report from a qualified and licensed engineer which:

- i) Describes the tower height and design, including a cross section and elevation.
 - ii) Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas;
 - iii) Describes the towers capacity, including the number and type of antennas it can accommodate.
 - iv) Describes how the applicant will take to avoid interference with established public safety communication.
 - v) Includes the engineer's stamp and registration number.
 - vi) Includes other information necessary to evaluate the request.
- b) Letter of intent committing the tower owner, and successors, to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - c) Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.
 - d) A report from a qualified professional engineer which demonstrates the tower compliance with all applicable structural and electrical standards.
 - e) A site plan showing the boundaries of the property on which the tower is located, adjacent land uses, the location of the tower and any accessory buildings within the property, distance setbacks from property lines for the tower and accessory buildings, fence locations, and proposed landscaping or screening.
 - f) A bond or other form of security approved by the Town, posted for the purpose of reimbursing the Town for cost of removal of the tower in the event its use is discontinued.

Section 12: BUILDING MOUNTED ANTENNAS. The placement of a wireless telecommunication antennas on roofs of walls of existing buildings or structures shall be approved by the Town as a conditional use provided that the antennas meet the requirements of this ordinance, after submittal of a final site and building plan, and a report prepared by qualified professional engineer indicating the existing building or structures suitability to accept the antenna as well as a proposed method for affixing the antenna to the structure. Complete details of all fixtures, couplings, and the precise point of attachment shall be indicated.

Section 13: AMATEUR RADIO AND RESIDENTIAL TELEVISION TOWERS. Amateur Radio Towers, Residential Television Towers and antennas are subject to the standards and conditions established by this ordinance, except for those specific to commercial towers. The Town may waive strict compliance with this ordinance if it finds that the stated purpose of this ordinance is met.

Section 14: PENALTIES AND REMEDIES.

Subd. 1. Criminal. A violation of this ordinance shall constitute a misdemeanor. Each calendar day of a continued violation of the ordinance shall constitute an individual misdemeanor or offense.

Subd. 2. Civil. The Town shall be entitled to injunctive relief and other remedies available at law to enforce this Ordinance. In the event it becomes necessary for the Town to commence a legal action to enforce this Ordinance, the person or entity violating this Ordinance shall also be responsible for the Town's attorneys' fees incurred in enforcement.

This Ordinance shall be effective upon passage and publication.

Approved this 4th day of February, 1998.

TOWN OF LESAUK

By Ronald Haber
Town Chair

By Marlyce S. Klante
Town Clerk

Approved this 4th day of February, 1998.

SARTELL-LESAUK JOINT PLANNING BOARD

By Robert G. Garret
Chair

By Pat Thomas
Secretary