

ORDINANCE NO. 73

AN ORDINANCE REGULATING THE LOCATION, CONSTRUCTION, SCREENING AND USE OF TELECOMMUNICATION TOWERS AND ANTENNAS WITHIN THE TOWN OF WHITE BEAR, RAMSEY COUNTY, MINNESOTA

THE TOWN BOARD OF SUPERVISORS OF THE TOWN OF WHITE BEAR ORDAINS:

SECTION 1. TITLE. This Ordinance, regulating the location, construction, screening and use of telecommunication towers and antennas within the Town of White Bear shall hereafter be known, cited and referred to as the "Telecommunications Tower and Antenna Ordinance" of the Town of White Bear, except as referred to herein, where it shall be known as "this Ordinance".

SECTION 2. PURPOSE. In order to accommodate the communication needs of residents and businesses, while protecting the public health, safety, and general welfare of the community, the Town Board finds that these regulations are necessary in order to:

2-1. Provide for the appropriate location and development of telecommunication towers and antennas within the Town.

2-2. Maximize the use of existing towers, structures, or buildings to accommodate new telecommunication antennas in the Town; and

2-3. Minimize adverse visual effects of structures and buildings through careful design, siting and screening.

SECTION 3. DEFINITIONS. In the construction of the Ordinance, the definitions set forth in the Zoning Ordinance shall be applicable. In addition, the following words or terms shall be defined as stated in this Section, except when the context clearly indicates otherwise.

3-1. WIRELESS TELECOMMUNICATION SERVICES. Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services ((PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), commercial or private paging services, or similar services that are marketed to the general public.

3-2. ANTENNA STRUCTURE. Any building, ground or roof mounted pole, spire, telescoping mast, tower, tripod, structure, water tower, or combination thereof to which a telecommunications antenna is or may be attached or affixed, including structural support of the foregoing.

3-3. ANTENNA. Any device, which by use of any means, is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type or purpose.

SECTION 4. ANTENNA STRUCTURE LIMITED TO I-1 – LIGHT INDUSTRIAL DISTRICT. Antenna structures shall be allowed only in I-1 – Light Industrial Zoning Districts of Ordinance No. 35 (Zoning), except Township water towers in the R-1 Zone.

SECTION 5. ANALYSIS/PROOF OF NEED. New antenna structures shall not be erected, constructed, used or located within the Town unless a Conditional Use Permit is obtained from the Town. A Conditional Use Permit shall not be issued unless the following requirements are met:

5-1. The applicant demonstrates to the satisfaction of the Town that the proposed antenna structure will reasonably meet the radio frequency and spacing needs of the applicant and anticipated co-locators to provide wireless telecommunication service within the Town; and

5-2. The applicant demonstrates to the satisfaction of the Town that applicant's needs for an antenna cannot be accommodated on an existing approved antenna structure within the Town due to one or more of the following reasons:

5-2.1. No antenna structure exists at a height necessary for the proposed antenna to function as documented by a qualified licensed professional engineer.

5-2.2. The planned antenna would exceed the structural capacity of any existing approved antenna structure in the Town as documented by a qualified and licensed professional engineer, and the existing or approved antenna structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent antenna.

5-2.3. The planned antenna would cause interference materially impacting existing or planned antenna at the existing approved antenna structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

5-3. The applicant demonstrates to the satisfaction of the Town that the proposed antenna structure site is at least one-half mile from any existing antenna structure within the Town.

5-4. The following preferences shall be followed when selecting sites:

5-4.1. Water towers.

5-4.2. Co-locating on existing towers.

SECTION 6. CO-LOCATION REQUIREMENTS. Any proposed antenna structure shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antenna and comparable antenna for additional users. Antenna structures must be designed to allow for future expansion (at new co-locator's expense) or rearrangement of antenna upon the antenna structure and to accept antenna mounted at varying heights, but not to exceed 150' in height. A letter of intent as required in Section 16.2 of this Ordinance, committing the applicant, antenna structure owner, user, property owner upon which situated, and successors to allow the shared use of the antenna structure shall be submitted to the Town at the time of application to accommodate co-location. Applicant shall negotiate in good faith with any and all potential co-locators.

SECTION 7. ANTENNA STRUCTURE REQUIREMENTS. Proposed or modified antenna structures shall meet the following requirements:

7-1. Antenna structures 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. Antenna structure locations shall be screened as required by the Town to inhibit off-site views of the antenna structure.

7-2. The use of guyed towers is prohibited. Antenna structures must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration unless the Town determines that an alternative design would better blend into the surrounding environment or better facilitate co-location.

7-3. Antenna structures shall be constructed and maintained so as to meet recognized applicable standards or regulations, such as, but not limited to those standards and regulations established by American National Standards Institute (ANSI), Electronic Industries Alliance (EIA), Federal Communications Commission (FCC), Federal Aviation Administration (FAA), Institute of Electrical and Electronics Engineers (IEEE), MMC, NEC, NFDA, Occupational Safety & Health Administration (OSHA), or their successors.

7-4. The base of the antenna structure shall occupy no more than 500 square feet and the top of the antenna structure and antenna shall be no larger than the base.

SECTION 8. ACCESSORY STRUCTURE. Transmitting, receiving, switching and other equipment necessary for use of any antenna shall be housed within an

existing structure whenever possible. All new structures accessory to an antenna shall be designed and screened as required by the Town to minimize off-site and other visibility and blend in with the surrounding environment and shall meet the minimum setback requirements of the I-1 Zoning District.

SECTION 9. ANTENNA STRUCTURE AND ANTENNA HEIGHT. Antenna structure height shall meet, but not exceed, the height needed for the proposed use and co-location requirements of this Ordinance. No antenna shall be located any higher on an antenna structure than is reasonably necessary for proper operation of the antenna. In the event that actual uses for any twelve-month period do not require the full tower height, at the Town's request, applicant shall reduce the tower height to a height no higher than reasonably necessary as for such actual use, to the extent technically feasible. In no event shall an antenna structure, including the antenna, exceed 165' in height above grade.

SECTION 10. SETBACKS. Antenna structures shall be set back from any residential building a distance equal to the height of the antenna structure, and set back from the edge of any publicly traveled road by at least forty (40) feet.

SECTION 11. ANTENNA STRUCTURE LIGHTING. Antenna structures 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 federal or state authority.

SECTION 12. SIGNS AND ADVERTISING. The use of any portion of an antenna structure or antenna for signs other than warning or equipment information signs is prohibited.

SECTION 13. SECURITY FENCING. If required by the Town, antenna structures shall be provided with security fencing to prevent unauthorized entry.

SECTION 14. ON-SITE VEGETATION. Existing on-site vegetation shall be preserved to the maximum extent practicable.

SECTION 15. ABANDONED OR UNUSED ANTENNA STRUCTURES OR PORTIONS OF ANTENNA STRUCTURES. Antenna structures and accessory structures shall be deemed abandoned or unused if any antennas are not used for transmitting or receiving for six (6) consecutive months. Abandoned or unused antenna structures or portions of antenna structures shall be removed as follows:

15-1. All abandoned or unused antenna structures and accessory structures shall be removed (or retained) as required by the Town. A copy of the relevant portions of a signed lease which requires the applicant to remove or retain the antenna structure and accessory structures as required herein shall be submitted at the time of application. In the event that an antenna structure and

accessory structure is not removed as required herein, the same may be removed by the Town and the costs of removal shall be paid to the Town by the applicant within sixty (60) days from invoice.

15-2. Unused portions of antenna structures above a manufactured connection shall be removed within six months of the time of antenna relocation.

15-3. Upon the abandonment of any antenna or antenna structure, the removal of which has not been promptly completed, the Town Public Works Department or other authorized agent of the Township, may remove such antenna and/or structure within ten (10) days after written notice is given by mail, directed to the address of the permittee on file. If the permittee shall fail to pay the cost of removal and storage thereof, within a period of sixty (60) days after the giving of such notice, the permittee's rights in said antenna or antenna structure shall be forfeited, but such forfeiture shall not excuse the permittee from the payment of the cost of removal and storage of said antenna or antenna structure.

SECTION 16. ADDITIONAL SUBMITTED REQUIREMENTS. In addition to the information required elsewhere in this Ordinance, applications for antenna structures shall include the following supplemental information:

16-1. A report from a qualified and licensed professional engineer which:

16-1.1. Describes the antenna structure height and design including cross section and elevation;

16-1.2. Documents the height above grade for all potential mounting positions for co-located antenna and the minimum separation distances between antenna;

16-1.3. Describes the antenna structure's capacity, including the number and type of antenna that it can accommodate;

16-1.4. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

16-1.5. Certifies that applicant will construct and operate its antenna structure in a manner so as to comply with all regulations and requirements referenced in Section 7-3 of this Ordinance; and

16-1.6. Includes an engineer's stamp and registration number.

16-2. For all wireless telecommunications service antenna structures, a letter of intent shall be provided to the Town committing the antenna structure owner, property owner, and his, her or its successors to allow the share use of

the antenna structure if an additional user agrees in writing to meet reasonable terms and conditions for shared use. Any disputes arising out of any shared use agreement shall be resolved through arbitration conducted under the then current rules of the American Arbitration Association.

16-3. The following supplemental information shall also be submitted:

16-3.1. Proof that the proposed antenna structure complies with regulations administered by the Federal Aviation Administration;

16-3.2. Any proof of non-interference or other report which applicant has submitted or is required to submit under any Federal Communications Commission regulation or requirement regarding interference with radio or television service enjoyed by adjacent residential and non-residential properties;

16-3.3. A report from a qualified engineer or other professional which demonstrates the antenna structures compliance with the aforementioned standards; and

16-3.4. Proof of reasonable liability insurance acceptable to the Town.

SECTION 17. ANTENNA ATTACHMENT. No antenna may be attached as a co-location on any antenna structure without first submitting the supplemental information required under Section 16-3.2 of this Ordinance, and obtaining a building permit pursuant to Ordinance No. 8 (Building Code).

SECTION 18. COST AND FEES. The applicant shall also pay the Conditional Use Permit application fee as set forth in Ordinance No. 54 (Fees & Charges), which shall not exceed all costs the Town may incur in employing the services of engineers, attorneys, and other professional consultants in connection with an application. The Town may require the applicant to pay an initial deposit for these services at the time of application. If the amount of the initial deposit does not cover all costs, the applicant will be so advised and full reimbursement shall be made by the applicant whether the application is approved or denied.

SECTION 19. INSPECTIONS. The Town shall have the right to conduct reasonable periodic inspections of antenna structures and accessory structures in order to determine compliance with this Ordinance, and the applicant, user, property owner, and structure owner shall cooperate with the Town in any such Town inspections. In the event the Town utilizes outside consultants for any necessary inspections, applicant will reimburse the Town for the reasonable costs of such outside consultants.

SECTION 20. SEVERABILITY. Should any section, subdivision, clause or other provisions of this Ordinance be held to be invalid by any court of competent

jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

SECTION 21. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its passage and publication.

Passed by the Town Board of Supervisors of the Town of White Bear, Ramsey County, Minnesota, this 7th day of September, 1999.

APPROVED:

ROBERT J. WEISENBURGER, Chairman

ATTEST:

WILLIAM F. SHORT, Clerk-Treasurer

Board of Supervisors:
ROBERT J. WEISENBURGER, Chair
RICHARD A. SAND, Supervisor
LINDA J. FORD, Supervisor

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Historical Notes
1999

Ordinance, Title and Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 originally adopted September 7, 1999, and effective September 15, 1999 by Weisenburger (Chair); Sand and Ford; Short (Clerk-Treasurer).