



ORDINANCE NO. 21

v1.0

COMMERCIAL WIRELESS TELECOMMUNICATION TOWER OVERLAY DISTRICT

SECTION 21 – Commercial Wireless Telecommunication Tower Overlay District

21.01 Purpose and Intent.

The Commercial Wireless Telecommunications Tower Overlay District (or Tower Overlay District) is hereby established. The purpose and intent of the district is to:

1. Reasonably accommodate the provision of Commercial Wireless Telecommunication Services to the general public;
2. Minimize adverse visual effects of Commercial Wireless Telecommunication Towers, Antennae, or accessory equipment through careful design and siting standards;
3. Avoid potential damage to adjacent properties from tower failures through structural standards and setback requirements; and,
4. Maximize the use of existing and approved towers, structures and/or buildings for the location of new Commercial Wireless Telecommunication Towers or Antennae in order to reduce the number of such structures needed to accommodate Commercial Wireless Telecommunication services.
5. Provide additional standards above and beyond the standards of the underlying zoning district.

21.02. Definitions.

As used herein, the following terms shall mean:

1. **Commercial Wireless Telecommunication Tower.** Any pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna or to serve as an antenna for commercial purposes.
2. **Antennae.** That portion of any equipment used to radiate or receive radio frequency energy for transmitting or receiving radio or television waves. Antennae may consist of metal, carbon fiber, or other electromagnetically conductive rods or elements.
3. **Tower Accessory Equipment.** A structure located at the base of a tower housing radio receiving/transmitting equipment and other associated electronic equipment necessary for a communications facility.
4. **Commercial Wireless Telecommunication Facility.** The combination of a Commercial Wireless Telecommunication Tower, Antennae and Tower Accessory Equipment.

21.03. Tower Overlay District Boundaries, Authority.

The boundaries of the Tower Overlay District shall be as illustrated on attached Exhibit A or as adopted from time to time by the City Council and depicted on the Official Zoning Map of the City. The Tower Overlay District standards shall supersede the standards for the underlying zoning district only as such standards apply to Commercial Wireless Telecommunication Facilities.

21.04 Conditional Use Permit Required.

1. No person shall install a Commercial Wireless Telecommunication Facility or any portion thereof, at a height greater than is allowed for structures in the underlying zoning district without first being issued a Commercial Wireless Telecommunication Conditional Use Permit. Permits will only be issued for locations within the Tower Overlay Districts.
2. If the property or any portion of the Commercial Wireless Telecommunication Facility changes ownership, the City must be informed immediately of the name and address of the new owner(s).
3. The Conditional Use Permit, once granted for a particular site, will serve as the operating authority for any future co-located antennae and ground facilities located on the same site. The owners of any co-located facilities shall be subject to any and all conditions of the Conditional Use Permit granted for the site.

21.05 Building Permits Required.

Building Permits are required for the construction of any tower, placement of antennae, and ground facilities of the initial installation. Building Permits are also required for any future co-location of antennae and additional ground facilities. The process for applying for a Building Permit for Wireless Communication Facilities shall be consistent with the Building Permit Process and general policies of the City in effect at the time of application.

21.06 Applications for Conditional Use Permit.

Applications submitted to the City for a Conditional Use Permit for a Commercial Wireless Telecommunication Tower shall include the following information:

1. A sketch drawn to scale acceptable to the City and the City Engineer which illustrates:
 - a. The parcel of land on which the tower and accessory ground facilities are to be located.
 - b. The buildings located and to be located on the tower parcel.
 - c. The buildings located within 100 feet of the perimeter of the tower parcel.
 - d. Access easements as necessary to the tower parcel.
2. A sketch drawn to scale or a photo image acceptable to the City Planner and City Engineer which illustrates the relative size of the proposed Commercial Wireless Telecommunication Tower or existing structure on which the Antenna will be located compared to structures located within 100 feet of the perimeter of the parcel on which the tower is located and which illustrates the visibility of such tower from adjoining parcels located within 100 feet of the perimeter of the parcel on which the tower is located. The City may also require a visual impact demonstration including mockups and/or photo montages and plans for painting the tower.
3. A report from a qualified licensed professional engineer which:
 - a. Describes the commercial Wireless Telecommunication Tower height and design including a cross-section and elevation.
 - b. Certifies the Commercial Wireless Telecommunication Tower's compliance with structural and electrical standards.
 - c. Documents the height above grade for the mounting positions which can be used for co-location and the minimum separation distances between such co-location positions.

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- d. Describes the Commercial Wireless Telecommunication Tower's capacity to support Antennae, including an example of the number and type of antennas that can be accommodated on the Commercial Wireless Telecommunication Tower.
4. A two (2) year plan for Commercial Wireless Telecommunication Facilities to be located within the City shall be submitted by the applicant. The City acknowledges that such plans are fluid and in all likelihood will change depending upon market demands for the service. The City will maintain an inventory of all existing and reasonably anticipated cell site installations. The applicant shall provide the following written information in each two-year plan and the plan must be updated with each submittal for a new Commercial Wireless Telecommunication Tower Permit as necessary:
- a. A description of the radio frequencies to be used for each technology.
 - b. A list of all existing sites to be upgraded or replaced, and proposed cell sites within the City for these services by the applicant.
 - c. A presentation size map of the City, which shows the two-year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.
 - d. The cost of mailing addresses for all property owners of record located within 1,000 feet of the subject property to be compiled by the City.
 - e. An application fee or escrow in an amount prescribed from time to time by City Council resolution as necessary to reimburse the City for costs incurred to process the Commercial Wireless Telecommunication Tower Permit Application. Any amount in escrow not needed for reasonable costs once the Permit process is complete will be returned to the applicant.
 - f. Confirmation that the applicant is properly licensed by the FCC, or is the authorized representative of a Commercial Wireless Telecommunication Provider properly licensed by the FCC.
 - g. Written authorization from the property owner describing the area which will be subject to the tower lease and acknowledging that the owner of the Tower and Facilities will be responsible for removal of the Commercial Wireless Telecommunication Tower, Antennae, and Tower Accessory Equipment which is unused or abandoned for twelve (12) consecutive months, as provided for in this ordinance.
 - h. Documentation of the steps to be taken by applicant to avoid causing destructive interference to co-located previously established public safety communications facilities.
 - i. A detailed landscape plan, which indicates how Tower Accessory Equipment, if any, will be screened.
 - j. A bond or escrow of an amount recommended by the City Engineer for removal of abandoned Towers and associated Facilities, or portions thereof.

21.07 Planning Commission Review.

Upon receipt of a completed application, the City shall schedule a hearing before the Planning Commission, which shall be preceded by ten days mailed notice to the record owners of property located within 1,000 feet of the parcel on which the tower will be located. The Planning Commission shall make recommendations to the City Council regarding the issuance of the Commercial Wireless Telecommunication Tower Permit and, in particular, in regard to the following:

1. Compliance of application with the City regulations, development standards, and other reasonable engineering criteria the City may establish.
2. Proposed conditions, as necessary, to prevent the Commercial Wireless Telecommunication Tower, Antennae and Tower Accessory Equipment from becoming a nuisance to surrounding property owners.

21.08 City Council Review.

Upon receipt of Planning Commission recommendations, the City Council shall review the application. The City Council may approve the application subject to conditions, table its review until a date certain, or deny the application for a Commercial Wireless Telecommunication Tower Permit. If the application is approved by the City Council, a Commercial Wireless Telecommunication Tower Conditional Use Permit shall be issued upon the execution of a Commercial Wireless Telecommunication Tower Ground Use Agreement. The agreement shall be signed by the applicant and property owner and the terms of the agreement shall include the following:

1. A list of the conditions of approval to the Commercial Wireless Telecommunication Tower Permit.
2. A statement indicating that failure to comply with the conditions of approval shall result in the removal of the Commercial Wireless Telecommunication Tower, Antennae or Tower Accessory Equipment.
3. A statement indicating that the expenses incurred by the City to enforce the provisions of the Commercial Wireless Telecommunication Tower Agreement shall be reimbursed by the applicant.
4. A statement which requires the applicant to utilize the procedures established by the FCC to resolve any reasonable complaints received relating to interference allegedly caused by the Commercial Wireless Telecommunication Tower.
5. A statement indicating that a Commercial Wireless Telecommunication Tower which has not been used for twelve (12) consecutive months shall be deemed abandoned and may be required to be removed as provided for in this ordinance or in the same manner and pursuant to the same procedures as for hazardous and substandard buildings (Minn. Stat. 463.15 through 463.261 and amendments thereto).

21.09 Co-Location Requirements.

Except as hereinafter provided, antennae utilized to provide Commercial Wireless Telecommunication services shall be located on existing towers or structures. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort was made to co-locate on existing towers and structures within 1/2 mile of the City limits, but an agreement could not be reached.

21.10 Exceptions to Co-Location Requirements.

The City Council may waive any or all of the co-location requirements and allow additional Towers to be erected, but only within the Tower Overlay District, if it is determined that:

1. The Antennae and/or Tower Accessory Equipment would cause the structural capacity of an existing or approved tower or building to be exceeded, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified, or replaced to accommodate such Antennae or Tower Accessory Equipment at a reasonable cost.
2. The Antennae and/or Tower Accessory Equipment would cause interference materially impacting the usability of existing Antennae or Tower Accessory Equipment as documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
3. Existing or approved towers and buildings within the applicant's search radius cannot or will not accommodate the Antennae and/or Tower Accessory Equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer.
4. Other unforeseen reasons make it infeasible to locate the Antennae and/or Tower Accessory Equipment upon an existing or approved tower or building.

21.11 Construction Permits - Building Permits.

All Commercial Wireless Telecommunication Towers erected, constructed, or located within the City, and all wiring therefore, shall comply with the requirements set forth in the Uniform Building Code.

21.12 Tower Standards.

Commercial Wireless Telecommunication Towers shall comply with the following standards unless the City Council grants a variance as necessary to reasonably accommodate the Commercial Wireless Telecommunication Tower. Variance procedures shall be processed according to the appropriate provisions of the Pine Springs Municipal Code.

1. Design.

- a. To blend into the surrounding environment through the use of color and architectural treatment.
- b. To be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment.
- c. All proposed Commercial Wireless Telecommunication Tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least three additional users.
- d. Where possible, all proposed Commercial Wireless Telecommunication Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.

2. Setbacks From Lot Lines.

The proposed setbacks of each application for the locations of Wireless Communication Towers and Facilities shall be subject to review, revision, and approval by the City Planning Commission and City Council.

3. Height.

The maximum height of any Commercial Wireless Telecommunication Tower, including all antennas and other attachments, shall not exceed 150 feet.

21.13 Lighting.

At night, Commercial Wireless Telecommunication Towers shall not be illuminated by artificial means, unless required by the FAA, FCC, or other government agency with authority over such matters.

21.14 Signs and Advertising.

The use of any portion of a Commercial Wireless Telecommunication Tower for signs other than warning or equipment information is prohibited.

21.15 Interference with Public Safety Telecommunication.

No Commercial Wireless Telecommunication Facility shall interfere with public safety telecommunications. All Commercial Wireless telecommunication towers/antennas shall comply with FCC regulations and licensing requirements.

21.16 Accessory Utility Buildings, Ground Maintenance Equipment.

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment, and shall be surrounded by a perimeter fence and screened with sufficient trees and shrubs as determined by the City to reduce the visual impact of the installation.

21.17 Abandoned or Unused Commercial Wireless Telecommunication Facilities.

All abandoned or unused towers, antennae, and associated above-ground structures, equipment, or facilities shall be removed within twelve (12) months of the cessation of operations of a Commercial Wireless Telecommunication Facility, unless a time extension is approved by the City Council. In the event the tower or other facility is not removed as required, the tower and facilities may be removed by the City and the costs of removal assessed against the bond or escrow held by the City for such purposes.

21.18 Penalties.

Penalties for violating this ordinance shall be as stipulated by the penalty provision of the City Building Code in force at the time of violation.

21.19 Effective Date.

This ordinance shall be and is hereby declared to be in full force and effect from and after its passage and publication according to law.

Passed by the Pine Springs City Council, Washington County, Minnesota, this 7th day of November, 2000.

Frank Bastyr (signature)
Mayor

Karen Pirozzoli (signature)
City Administrator

Revision History

Ver.	Changes	Date Changed
1.0	Adopted by the City Council	Nov 7, 2000

Exhibit A

Pine Springs

