

City of Lake Elmo
Washington County, Minnesota
Summary of Ordinance 97-24 Relating to
Wireless Telecommunication Tower Permit

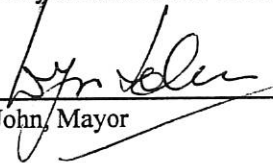
On January 21, 1998, the Lake Elmo City Council adopted Ordinance 97-24 relating to Wireless Telecommunication Tower Permits

On February 3, 1998, the Lake Elmo City Council received a summary of Ordinance 97-24 and by 5 affirmative votes, approved the publication of a summary of this ordinance, to wit:

Section 1390 Wireless Telecommunication Tower Permit

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A complete copy of Ordinance 97-24 " Wireless Telecommunication Tower Permit " is on file in the office of the City Administrator/Clerk and can be viewed by the public during normal business hours.



Wyn John, Mayor

Attest:


Mary Kueffner, City Administrator/Clerk

PUBLISHED IN THE MARCH 4, 1998 STILLWATER GAZETTE

Chapter 13 - Municipal Regulations

Section 1390 Wireless Telecommunication Tower Permit.

1390.01 Purpose and Intent.

The Wireless Telecommunication Tower Permit Regulations are intended to:

- (1) Reasonably accommodate the provision of Wireless Telecommunication Services to the general public;
- (2) Minimize adverse visual effects of 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 Wireless Telecommunication Towers in order to reduce the number of such structures needed to accommodate Wireless Telecommunication services.

1390.02 Definitions.

As used herein, the following terms shall mean:

- (1) 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.
- (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) Wireless Telecommunication Facility. The combination of a Wireless Telecommunication Tower, Antennae and Tower Accessory Equipment.

1390.03 Permit Required.

No person shall install a 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 Wireless Telecommunication Tower Permit.

Subd 1. Prohibited Areas.

Wireless Telecommunication Towers shall not be allowed in the following areas:

- (1) Residentially zoned parcels of less than ten (10) acres unless the Wireless Telecommunication Tower and ground facilities accessory thereto are located within 100 feet of the right-of-way of a public utility transmission line.
- (2) Open Space Easements or Conservation Easements.
- (3) Airport impact zones without consent of the FAA.

1390.04 Allowed Tower Sites.

Applicants for a Wireless Telecommunication Tower Permit shall make a reasonable effort to locate such towers and accessory ground facilities in the following areas:

- (1) On an existing public utility power line support structure, within an existing public utility power line right-of-way, or within 100 feet of such right-of-way.
- (2) On publicly owned property, as approved by the City Council.
- (3) On agriculturally or residentially zoned parcels greater than ten (10) acres.

1390.05 Application.

Applications for a Wireless Telecommunication Tower Permit shall be submitted on forms provided by the City Planner, which shall include the following information:

- (1) A sketch drawn to scale acceptable to the City Planner and City Engineer which illustrates:
 - a. The parcel on which the tower and accessory ground facilities.
 - 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 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 Planner may also require a visual impact demonstration including mock-ups and/or photo montages and plans for painting the tower.

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- (3) A report from a qualified and licensed professional engineer which:
 - a. Describes the Wireless Telecommunication Tower height and design including a cross-section and elevation.
 - b. Certifies the 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.
 - d. Describes the Wireless Telecommunication Tower's capacity to support Antennae, including an example of the number and type of antennas that can be accommodated on the Wireless Telecommunication Tower.

- (4) A two-(2) year plan for 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 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.

- (5) The cost of mailing addresses for all property owners of record located within 1,000 feet of the subject property to be complied by the City.

- (6) An application fee in an amount prescribed from time to time by City Council resolution as necessary to reimburse the City for costs incurred to process the Wireless Telecommunication Tower Permit Application.

- (7) Confirmation that the applicant is properly licensed by the FCC, or is the authorized representative of a Wireless Telecommunication Provider properly licensed by the FCC.

- (8) Written authorization from the property owner describing the area which will be subject to the tower lease and acknowledging that the property owner will be responsible for removal of the Wireless Telecommunication Tower, Antennae,

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and Tower Accessory Equipment which is unused or abandoned for twelve (12) consecutive months.

- (9) Documentation of the steps to be taken by applicant to avoid causing destructive interference to co-located previously established public safety communications facilities.
- (10) A detailed landscape plan, which indicates How Tower Accessory Equipment, will be screened.

1390.06 Planning Commission Review.

Upon receipt of a completed application, the City Planner shall schedule a hearing before the Planning Commission which shall be preceded by ten days mailed notice to the record owners of property located with 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 Wireless Telecommunication Tower Permit and, in particular, in regard to the following:

- (1) Compliance of application with the City regulations and development standards.
- (2) Proposed conditions, as necessary, to prevent the Wireless Telecommunication Tower, Antennae and Tower Accessory Equipment from becoming a nuisance to surrounding property owners.

1390.07 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 Wireless Telecommunication Tower Permit. If the application is approved by the City Council, a Wireless Telecommunication Tower Permit and a Building Permit shall be issued upon the execution of a Wireless Telecommunication Tower 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 Wireless Telecommunication Tower Permit.
- (2) A statement indicating that failure to comply with the conditions of approval shall result in the removal of the 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 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 complaints received relating to interference allegedly caused by the Wireless Telecommunication Tower.

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- (5) A statement indicating that a Wireless Telecommunication Tower which has not been used for twelve (12) consecutive months shall be deemed abandoned and may be required to be removed 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.)

1390.08 Co-Location Requirements.

Except as hereinafter provided, antenna utilized to provide Wireless Telecommunication services shall be located on existing towers or structures which exceed 75 feet in height and which are located within 1/4 mile of the antenna site being proposed by the applicant. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made but an agreement could not be reached.

1390.09 Exceptions to Co-Location Requirements.

The City Council shall waive any or all of the co-location requirements 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.

1390.10 Construction Permits.

All 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.

1390.11 Tower Standards.

Wireless Telecommunication Towers shall comply with the following standards unless the City Council grants a variance as necessary to reasonably accommodate the Wireless Telecommunication Tower. Variance procedures shall be processed according to Section 300.06 Subd. 3, of the Lake Elmo Municipal Code.

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(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 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 two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is between 75 feet and 100 feet in height.
- (d) Where possible, all proposed 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.

- (a) In all residential zoning districts Wireless Telecommunication Towers shall be set back one (1) foot for each foot of tower height plus twenty (20) feet.
- (b) In all zoning districts, towers may encroach into the rear or side yard setback areas, provided that the rear or side yard property line abuts a commercial or business zoned property and the Wireless Telecommunication Tower does not encroach upon any easements.
- (c) Wireless Telecommunication Towers shall not be located between a principal structure and a public street.
- (d) A required setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow for the integration of a Wireless Telecommunication Tower with an existing or proposed structure such as a church steeple, power line support device, or light standard.
- (e) A required setback may be reduced or its location in relation to a public street varied upon providing the City with a licensed professional engineer's certification that the Wireless Telecommunication Tower is designed to collapse or fail within a distance or zone shorter than the required setback distance.

(3) Height.

- (a) In all residential zoning districts, the maximum height of any Wireless Telecommunication Tower including all antennas and other attachments, shall not exceed one foot for each one foot the tower is setback from a residential dwelling unit up to a maximum of 195 feet for parcels of 40 acres or more and 125 feet for parcels between 10 to 40 acres in size.
- (b) In all non-residential zoning districts Wireless Telecommunication Tower and Antennae shall not exceed 195 feet in height above ground for a freestanding Wireless Telecommunication Tower, and 195 feet in height above ground as measured by the lowest ground elevation adjacent to a building on which the tower/antenna is located, including all antennas and other attachments where the zoning district is adjacent to a residential zoning district. The setback from a common lot line shall be two feet for each one-foot of tower height.

1390.12 Lighting.

At night, Wireless Telecommunication Towers shall not be illuminated by artificial means.

1390.13 Signs and Advertising.

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

1390.14 Interference with Public Safety Telecommunication.

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

1390.15 Prohibited Subdivisions.

Where a Wireless Telecommunication Facility has been located on a residentially or agriculturally zoned parcel greater than ten (10) acres, except when such facility is located within a power line easement, or within 100 feet of such easement, such parcels shall not be further subdivided unless the resulting parcel on which the Wireless Telecommunication Facility is located continues to be more than ten (10) acres in size.

1390.16 Accessory Utility Buildings.

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment.

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1390.17 Ground-Mounted Equipment.

All ground mounted equipment accessory to a Wireless Telecommunication Tower shall be enclosed in a building with brick walls and have a dark colored standing seam metal roof and be further screened with sufficient trees, as determined by the City Planner, and shrubs to substantially reduce the visual impact.