

CITY CODE CHAPTER 12 AMENDMENT

The City Council of the City of Silver Bay Ordains that the Silver Bay City Code, Chapter 12 is amended by adding Section 1231.

Section 1231 - Towers

1231.01 Findings. It has been determined by the Silver Bay City Council, that although towers serve a public need, towers also must meet reasonable standards established by the community. Because of the potential visual impact of towers, all lands within Silver Bay, public and private, shall be subject to these guidelines.

1231.02 Intent and purpose. The placement of towers over 35 feet in height requires approval through a Conditional Use Permit and if over 100 feet in height, also requires a height variance. Because of the nature of public notice required for towers over 100 feet, the filing fee shall represent the sum of the Conditional Use and Variance application fees.

Subd. 1 Lighting. The Council finds that there is significant public concern with the maintenance of dark skies, and the reduction of light trespass. Consequently, additional lighted towers shall be discouraged and co-location on existing structures encouraged.

Subd. 2. Public Health and Safety: This Article recognizes the need for protecting the health, safety and general welfare of all the citizens in the city while attempting to minimize possible adverse aesthetics related to the placement, construction or modification of tower facilities.

Subd. 3. Local Authority: The Telecommunications Act of 1996 affirms Local Government's right to control the siting, construction, and modification of cellular and other wireless telecommunication facilities. The permitting process in this Article does not discriminate among providers of functionally equivalent services and does not prohibit the provision of personal wireless services.

1231.03 Applicability. It shall be unlawful for anyone to erect, construct, or place any new tower facility over 35 feet in height without first receiving appropriate permits from the Silver Bay Planning & Zoning Commission. It shall be unlawful to alter, modify, transform, add to, or change in any way, an existing tower facility without first receiving permits from the Planning & Zoning Commission.

1231.04 Permits. The following tower related facilities and activities may be considered for a Land Use permit if they meet the application requirements and standards of this Chapter.

Subd. 1 Existing structures. The addition of antennae on existing structures which do not increase the height or require structural modification of the facility.

Subd. 2 Accessory Utility Buildings. All buildings and structures serving a tower shall:

- (a) Be constructed in such a manner that the external appearance is harmonious with structures in the area:
- (b) Be buffered and screened from adjoining uses:
- (c) Meet the height and setback requirements of the zoning district, and when in the case of co-location, more than one structure is required, structures must compliment each other:
- (d) Have integrated roof armoring to prevent equipment failure from ice fall.

1231.05 General Standards.

Subd. 1 Setback. The facility shall have a minimum distance to the part and/or recorded easement boundary equal to one and one-half (1 ½) times the height of the tower. Towers are generally prohibited in shoreland areas.

Subd. 2 Fencing. The tower facility shall be protected by a perimeter security fence six feet or greater in height to prohibit access by unauthorized persons. The radius of said perimeter shall be equal to at least one half the height of the tower.

Subd. 3 Signage. The owner's name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification of any kind is permitted on the tower facility except applicable warning and equipment information as required by the Manufacturer or by Federal, State or Local authorities.

Subd. 4 Lighting. Lighting shall comply with this Section's lighting standards.

Subd. 5 Facility Screening. Screening may be prescribed by the Planning & Zoning Commission depending on site location.

1231.06 Tower Design Requirements.

Subd. 1 Aesthetics Towers and antennae shall blend in with the surrounding environment through the use of color camouflaging, and architectural treatment, except where colors are dictated by Federal or State authorities.

Subd. 2 Monopole design. Towers on new sites shall be of a monopole design unless not suitable for the terrain, or unless otherwise authorized by the Planning & Zoning Commission..

Subd. 3. Certification. The proposal for a new tower shall not be approved unless the applicant successfully demonstrates under corporate letterhead that the

telecommunications equipment plan for the proposed tower cannot be accommodated on an existing or improved 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 approved tower or building as documented by a qualified and licensed professional engineer and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.

(c) The existing or approved towers or buildings within the search radius that are 60 feet or over in height cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed professional engineer.

(d) Reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

Subd 4. Additional users. Any proposed 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. Facilities providing greater antenna capacity will be considered more desirable than limited use towers. Towers must be designed to allow for future rearrangements of antennas and accept antennas mounted at varying heights.

1231.07 Additional submittal requirements: In addition to the information required elsewhere, applications shall include the following information:

Subd. 1 Engineer's report. A report from a licensed professional engineer that describes the tower's capacity including the number and type of antennas that it can accommodate.

Subd. 2 Letter of Intent. A letter of intent from the tower owner committing the tower owner and successors to allow the shared use of the tower if additional users agree in writing to meet reasonable terms and conditions for shared use.

Subd. 3. Airport compliance. A report from all airports within a twelve mile radius of the tower site acknowledging their awareness of the new tower location and evidence that the tower site has been appropriately reported to the Minnesota Department of Transportation Division of Aeronautics, Federal Aviation Administration, and the Federal Communications Commission.

1231.08. Abandoned or unused towers. Abandoned or unused towers and associated facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Planning & Zoning Commission. In the event that a tower is not removed within six months of the cessation of the operations at the site the tower and associated facility may be removed by the City with costs being assessed against the permittee or property.

1231.09 Compliance with Coastal Zone Management Regulations. In addition to compliance with this Section, the applicant shall demonstrate compliance with the Coastal Zone Management Board Regulations now in force or hereafter adopted.

1231.10 Agreement. Before any Tower Permit is issued, or any work done in preparation for or construction of a Tower, the applicant shall sign a Tower Use Agreement in the form provided by the City.

Effective Date. This amendment to the Silver Bay City Code shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of Silver Bay this 19th day of November, 2001.

ATTEST:

Scott Johnson, Mayor

Gary Brumberg, City Administrator