

TELECOMMUNICATIONS

Chapter 34

TELECOMMUNICATION*

Article I. In General

Secs. 34-1--34-30. Reserved.

Article II. Antennas and Towers

Division 1. Generally

- Sec. 34-31. Definitions.
- Sec. 34-32. Purpose; Goals.
- Sec. 34-33. Aesthetics and Lighting.
- Sec. 34-34. Federal Requirements.
- Sec. 34-35. Building Codes; Safety Standards.
- Sec. 34-36. Height Limitations.
- Sec. 34-37. Public Property.
- Sec. 34-38. Amateur Radio, Receive-Only Antennas.
- Sec. 34-39. Preexisting Towers and Antennas.
- Sec. 34-40. Removal of Abandoned Antennas and Towers.
- Secs. 34-41--34-60. Reserved.

Division 2. Uses and Permits

- Sec. 34-61. Principal or Accessory Use.
- Sec. 34-62. Inventory of Existing Sites.
- Sec. 34-63. Permitted Uses.
- Sec. 34-64. Conditional Use Permits.
- Sec. 34-65. Availability of Suitable Existing Towers or Other Structures.
- Sec. 34-66. Setbacks and Separation.
- Sec. 34-67. Landscaping.

*Cross references: Streets, sidewalks and other public places, ch. 58; utilities, ch. 66; zoning, app. B.

TELECOMMUNICATIONS

ARTICLE I. IN GENERAL

Secs. 34-1--34-30. Reserved.

ARTICLE II. ANTENNAS AND TOWERS

DIVISION 1. GENERALLY

Sec. 34-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative Tower Structure means manmade structures such as elevated tanks, electric utility transmission line towers, nonresidential buildings and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. Freestanding signs are not considered to be alternative tower structures.

Antenna means any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Governing Authority means the governing authority of the Village.

Height means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna.

Preexisting Towers and Antennas shall have the meaning set forth in Section 34-39.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or

monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures and the like.

(Ord. of 11-23-1998, § I(A))

Cross references: Definitions generally, § 1-2.

Sec. 34-32. Purpose; Goals.

The purpose of this article is to establish general guidelines for the siting of towers and antennas. The goals of this article are to:

- (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
- (2) Strongly encourage the joint use of new and existing tower sites;
- (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (4) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.

(Ord. of 11-23-1998, § I(C)(1))

Sec. 34-33. Aesthetics and Lighting.

The guidelines set forth in this section shall govern the location of all towers, and the installation of all antennas, governed by this article; however, the governing authority may waive these requirements if it determines that the goals of this article are better served thereby.

- (1) Towers shall maintain a galvanized steel finish, or, subject to any

TELECOMMUNICATIONS

applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting, alternatives and approve the design that would cause the least disturbance to the surrounding views.
- (5) Towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name be shown on the tower or antenna, it shall be posted no more than six feet above the ground on a placard no larger than one and one-half square feet.

(Ord. of 11-23-1998, § I(C)(4))

Sec. 34-34. Federal Requirements.

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the

effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the governing authority at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

(Ord. of 11-23-1998, § I(C)(5))

Sec. 34-35. Building Codes; Safety Standards.

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State and local building codes, and the applicable standards for towers that are published by the Electronic Industries Associated as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, the governing authority may remove such tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

(Ord. of 11-23-1998, § I(C)(6))

Sec. 34-36. Height Limitations.

The requirements set forth in this article shall govern the location of towers that exceed, and antennas that are installed at, a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not

TELECOMMUNICATIONS

apply to towers and antennas; however, in no case shall any tower exceed the following height limitations:

- (1) For a single user, up to 90 feet in height;
- (2) For two users, up to 120 feet in height; and
- (3) For three or more users, up to 150 feet in height.

(Ord. of 11-23-1998, § I(B)(1))

Sec. 34-37. Public Property.

Antennas located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this article, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.

(Ord. of 11-23-1998, § I(B)(2))

Sec. 34-38. Amateur Radio, Receive-Only Antennas.

This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively as a receive only antenna.

(Ord. of 11-23-1998, § I(B)(3))

Sec. 34-39. Preexisting Towers and Antennas.

Any tower or antenna for which a permit has been properly issued prior to the effective date of the ordinance from which this article is derived shall not be required to meet the requirements of this article, other than the requirements of Sections 34-34 and 34-35. Any such towers or antennas shall be referred to in this article as "preexisting towers" or "preexisting antennas."

(Ord. of 11-23-1998, § I(B)(4))

Sec. 34-40. Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within 90 days, the governing authority may remove such antenna or tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. of 11-23-1998, § I(F))

Secs. 34-41--34-60. Reserved.

DIVISION 2. USES AND PERMITS

Sec. 34-61. Principal or Accessory Use.

Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed, in accordance with the provisions

of this article, shall not be deemed to constitute the expansion of a nonconforming use of a structure.

(Ord. of 11-23-1998, § I(C)(2))

Sec. 34-62. Inventory of Existing Sites.

TELECOMMUNICATIONS

(Ord. of 11-23-1998, § I(D))

Each applicant for an antenna and/or tower shall provide to the Planning Commission an inventory of its existing towers that are either within the jurisdiction of the governing authority, or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The planning commission may share such information with other applicants applying for administrative approvals or conditional use permits under this article, or other organizations seeking to locate antennas within the jurisdiction of the governing authority; however, the Planning Commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(Ord. of 11-23-1998, § I(C)(3))

Sec. 34-63. Permitted Uses.

- (a) Generally. The uses listed in this section are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such uses shall comply with this article and all other applicable provisions.
- (b) Specific Permitted Uses. The following uses are specifically permitted:
 - (1) Installing an antenna on an existing alternative tower structure, so long as the additional antenna adds no more than 20 feet to the height of the existing structure; and
 - (2) Installing an antenna on an existing tower of any height, including a preexisting tower, and further including the placement of additional buildings or other supporting equipment used in connection with the antenna, so long as the addition of the antenna adds no more than 20 feet to the height of the existing tower.

Sec. 34-64. Conditional Use Permits.

- (a) *Generally.* The following provisions shall govern conditional use permits:
 - (1) If the tower or antenna is not a permitted use under Section 34-63, then a conditional use permit shall be required prior to construction of any tower, or the placement of any antenna.
 - (2) Towers and antennas may only be located in the M-1 (Limited Industrial), M-2 (General Industrial), B-1 (Neighborhood Service), B-2 (Community Service) and B-3 (General Commercial) districts.
 - (3) If a conditional use permit is granted, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
 - (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (b) *Information Required.* Each applicant requesting a conditional use permit under this article shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography frequency coverage, tower height requirements, setbacks, drives, parking, fencing,

TELECOMMUNICATIONS

landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this article.

- (c) *Factors Considered in Granting Conditional Use Permits.* The governing authority shall consider the following factors in determining whether to issue a conditional use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this article are better served thereby:

- (1) Height of the proposed tower.
- (2) Capacity of the tower structure for additional antenna equipment to accommodate expansion or to allow for collocation of another provider's equipment.
- (3) Proximity of the tower to residential structures and residential district boundaries.
- (4) Nature of uses on adjacent and nearby properties.
- (5) Surrounding topography.
- (6) Surrounding tree coverage and foliage.
- (7) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (8) Proposed ingress and egress.
- (9) Availability of suitable existing towers and other structures as discussed in Section 34-65.

(Ord. of 11-23-1998, § I(E)(1)-(3))

Sec. 34-65. Availability of Suitable Existing Towers or Other Structures.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (5) The fees, costs or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(Ord. of 11-23-1998, § I(E)(4))

Sec. 34-66. Setbacks and Separation.

TELECOMMUNICATIONS

The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required; however, the governing authority may reduce the standard setbacks and separation requirements if the goals of this article would be better served thereby:

- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential structure, or any parcel of land zoned residential.
- (2) Towers, guys and accessory facilities must satisfy the minimum zoning district setback requirements.

(Ord. of 11-23-1998, § I(E)(5))

Sec. 34-67. Landscaping.

The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; however, the governing authority may waive such requirements if the goals of this article would be better served thereby:

- (1) Tower facilities shall be landscaped with a mixture of deciduous and evergreen trees and shrubs that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
- (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
- (3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ord. of 11-23-1998, § I(E)(6))