Ordinance No. 2018-03

An Ordinance amending the city's telecommunication regulations; Repealing section 300.34 of the Minnetonka City code and adding a new section 310.03

The City of Minnetonka Ordains:

Section 1. Section 300.34 of the Minnetonka City Code, a copy of which is attached as Exhibit A, is repealed.

Section 2. The Minnetonka City Code is amended by adding a new section 310.03, in the form of the attached Exhibit B.

Section 3. This ordinance is effective on the date of its adoption.

Adopted by the city council of the City of Minnetonka, Minnesota on March 19, 2018.

Brad Wiersum, Mayor

ATTEST:

David E. Maeda, City Clerk
Ordinance No. 2018-03

Action on this Ordinance:

Date of introduction: Feb. 5, 2018
Date of adoption: March 19, 2018
Motion for adoption: Ellingson
Seconded by: Bergstedt
Voted in favor of: Wagner, Ellingson, Acomb, Calvert, Bergstedt, Wiersum
Voted against:  
Abstained: 
Absent: 
Ordinance adopted.

Date of publication: ________________

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on March 19, 2018.

____________________________________
David E. Maeda, City Clerk
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Exhibit A

Ordinance to be Repealed

SECTION 300.34 TELECOMMUNICATION FACILITIES

1. Purpose and Intent.

The purpose of this section is to establish predictable and balanced regulations for the siting and screening of wireless telecommunication equipment in order to accommodate the growth of wireless communication systems within the city while protecting the public against any adverse impacts on the city’s aesthetic resources and the public welfare. This section recognizes that these wireless communication systems provide a valuable service to the public but that they are not a public utility. This section creates two categories of support structures for antennas. The first category consists of existing towers, water towers, and high density residential and non-residential buildings, which the ordinance favors in order to minimize the number of freestanding towers needed to serve the community. The second category consists of all other support structures. The structures in this second category are all classified as freestanding telecommunications towers even if they are intended to replace existing light poles, utility poles, or similar structures. Freestanding towers are subject to increased standards to minimize their visual impact. One such standard is that towers must use state-of-the-art stealth design techniques to disguise the towers and soften their views. A telecommunications company that does not currently use stealth technology will need to develop this capability in order to place freestanding towers in this city. This ordinance does not accept the lowest common denominator and challenges the telecommunications companies to improve their technology. This ordinance allows minimal use of the public right-of-way for telecommunication antennas because that space should be reserved for public utilities and should be free of safety hazards. In addition, telecommunications facilities located in the right-of-way have the potential of being very visible to the traveling public. In order to locate in a public right-of-way, telecommunications companies must use improved technology to reduce the size and visibility of their facilities.

2. Definitions.

For the purposes of this section, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

a) "Accessory equipment" means the wires, cables, and other equipment or facilities that are used with antennas.

b) "Antenna" means a device used for transmitting or receiving telecommunication, television or radio signals that is used for personal wireless telecommunication service or any other purpose, except a device used for the private enjoyment of those on the premises where it is located, such as amateur radio antennas and antennas receiving television signals for viewing on site. "Antenna" also does not include a lightning rod.

c) "Antenna support structure" means an existing structure that is a telecommunications tower, high density residential or non-residential building, water tower, or
electric transmission tower carrying over 200 kilo volts of electricity, that can be used for the location of antennas without increasing the mass of the existing structure.

d) “Engineer” means an engineer licensed by the state of Minnesota, or an engineer acceptable to the city if licensing is not available.

e) “Stealth design” means state-of-the-art design techniques used to blend the object into the surrounding environment and to minimize the visual impact as much as reasonably possible. Examples of stealth design techniques include eliminating all horizontal projections; architecturally screening roof-mounted antennas and accessory equipment; integrating telecommunications facilities into architectural elements; nestling telecommunications facilities into the surrounding landscape so that the topography or vegetation reduces their view; using the location that would result in the least amount of visibility to the public, minimizing the size and appearance of the telecommunications facilities; and designing telecommunications towers to appear other than as towers, such as light poles, power poles, flag poles, and trees.

f) “Telecommunications facilities” means antennas, accessory equipment, and telecommunications towers.

g) “Telecommunications tower” or “tower” means a free-standing, self-supporting lattice, guyed, or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations.

3. **Administrative Approval.**

   a) The city planner may grant administrative approval of the following telecommunication facilities:

   1) Telecommunications facilities located on electric transmission towers carrying over 200 kilo volts of electricity.

   2) Telecommunication facilities located on an antenna support structure that has already been approved by a conditional use permit as the location for a telecommunication facility, if the proposed facility does not involve a variance and is not accompanied by any other matter requiring consideration by the planning commission or city council.

   3) A one-time 15-foot extension of an existing monopole telecommunications structure or one-time replacement of an existing monopole by a tower no greater than 15-feet taller than the existing monopole may be administratively approved if the proposed facility does not involve a variance and is not accompanied by any other matter requiring consideration by the planning commission and city council; and

   4) Telecommunication facilities that are attached to an existing public utility structure within a right-of-way if:

       a. the telecommunication facility does not extend above the top of the existing utility structure and the height of the existing utility structure is not increased to accommodate the telecommunication facility;
b. any replacement utility structure does not exceed the height of the existing utility structure, including the telecommunication facility, and does not exceed the diameter of the existing utility structure by more than 50 percent;

c. the telecommunication facility is no larger than three cubic feet and has no individual surface larger than four square feet;

d. the telecommunication facility uses stealth design as much as possible, but in no event extends outward from the utility structure beyond two and one-half feet or three feet for an antenna that is one half inch in diameter or less;

e. there is no ground mounted equipment;

f. there is no interference with public safety communications or with the original use of the public utility structure; and

g. the telecommunication facility must be removed and relocated when the road authority requires the removal and relocation of the public utility structure.

b) Administrative review and approval is subject to the following:

1) Submittal of a complete site and building plan review application, accompanied by a registered land survey, complete site plan, building elevations, and antenna elevations and be signed by a registered architect, civil engineer, landscape architect or other appropriate design professional.

2) Submittal of an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of the applicant's system. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis; and

3) Submittal of any necessary easements and easement exhibits, which have been prepared by an attorney knowledgeable in the area of real estate and which are subject to the city attorney's approval.

c) The city planner will render a decision within 30 days and serve a copy of the decision upon the applicant by mail.

d) Any person aggrieved by a decision of the city planner may appeal the decision to the planning commission in the manner specified in section 300.04 of this ordinance.


Telecommunications facilities that are not eligible for administrative approval under subdivision 3 are permitted only as a conditional use in all zoning districts and must be in compliance with the provisions of this section.

a) Conditional use telecommunication facilities are subject to the review procedures outlined in section 300.06 of this ordinance.
b) Conditional use telecommunications facilities are subject to the following standards:

1) Residential and commercial zoning districts.

a. Telecommunication facilities may be located only on public or institutional property: in R-1 and R-2 residential districts and on property guided for low-density residential in the Planned I-394 District subject the standards listed in subparagraphs b through e which follow.

b. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis;

c. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs; and

d. A telecommunications tower and antennas, including attachments other than lighting rods, must not exceed 75 feet in height, measured from grade. The city council may increase this height to 90 feet if the increase in height would not have a significant impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

e. Telecommunications facilities may be located in public right-of-way of a major collector or arterial roadway as defined in the comprehensive plan, if they meet all of the following requirements:

1. The facility is not located within a special area designated subdivision 7;

2. The facility is not located adjacent to residentially zoned property unless the applicant demonstrates by providing a study prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and no other location is feasible in a non-residential zone;

3. The facility must use as many stealth design techniques as reasonably possible. In particular, the antennas must be designed to minimize their size and appearance. Economic considerations alone are not justification for failing to provide stealth design techniques; and

4. The facility must also comply with the requirements in subdivision 6(k) below.
2) Industrial districts.

a. Antennas may be located in industrial districts on an antenna support structure, a public utility facility, or a telecommunications tower and may be on any right-of-way. Antennas on a right-of-way must also comply with the requirements in subdivision 5(k) below.

b. In industrial districts, a telecommunications tower, including attachments other than lighting rods, may not exceed 150 feet in height, measured from grade. The city council may allow towers up to 199 feet high if the applicant can demonstrate that off-site views of the tower will be minimized by the topography of the site and surrounding area, the location of the tower, the tower design, the surrounding tree cover and structures, or the use of screening. The city council may waive this height standard for a tower used wholly or partially for essential public services, such as public safety.

c. No part of a tower in an industrial district may have a horizontal area of more than 500 square feet.

d. An applicant must provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antennas is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it. The applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis.

e. A telecommunications facility must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques. The city council may require that a different location be used if it would result in less public visibility, is available, and would meet the applicant’s reasonable capacity and coverage needs.

5. General Standards.

The following standards apply to all telecommunications facilities.

a) Vertical projection on antenna support structures. Antennas mounted on an antenna support structure must not extend more than 15 feet above the height of the structure to which they are attached. Wall or facade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building.

b) Horizontal projection. Antennas must not project out from the side of the antenna support structure or tower, unless it is physically impossible to locate the antennas within the structure or tower, in which case they must not project out by more than three feet by more than three feet.

c) Setbacks. A tower adjacent to a R-1, R-2, or R-3 zoning district must meet the building setback that is established for the district where it is to be located, but only from the residential zone. This setback is not required for a tower in a right-of-way. The city may waive this setback requirement if necessary to implement stealth design techniques or if the
residentially zoned property is public or institutional property. An accessory equipment cabinet that is greater than 120 square feet in size must be at least ten feet from all property lines.

d) The height of an antenna and tower must be the minimum necessary to meet the applicant’s coverage and capacity needs, as verified by an electrical engineer or other appropriate professional. The city council may waive this requirement if additional height is appropriate for co-location opportunities.

e) Exterior surfaces. Towers and antennas must be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized finish to reduce visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

f) Ground-mounted equipment. Ground-mounted accessory equipment or buildings must be architecturally designed to blend in with the surrounding environment, including the principal structure, or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. Additional space needed for the co-location of antennas must be added to an existing accessory building in a manner to make it appear as one building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

g) Construction. Telecommunications facilities must be in compliance with all building and electrical code requirements. A tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the telecommunications facilities must be in compliance with the manufacturer’s specifications.

h) Co-location opportunity. If a new tower over 60 feet in height is to be constructed:

1) the tower must be designed to accommodate both the applicant’s antennas and antennas for at least one additional comparable user;

2) the tower must be designed to accept antennas mounted at additional heights;

3) the applicant, the tower owner, the landowner, and their successors must allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, must submit a dispute over the potential terms and conditions to binding arbitration, and must sign the conditional use permit agreeing to these requirements. The city council may waive these co-location requirements if necessary to implement stealth design.

i) External messages. No advertising message or identification sign larger than two square feet may be affixed to the telecommunications facilities.
j) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety or unless necessary to facilitate service to ground-mounted equipment.

k) Rights-of-way. All telecommunication facilities in a public right-of-way must comply with the following:

1) Telecommunications facilities located within a right-of-way must not negatively impact the public health, safety and welfare, interfere with the safety and convenience of ordinary travel over the right-of-way, or otherwise negatively impact the right-of-way or its users. In determining compliance with this standard, the city may consider one or more of the following factors:

   a. the extent to which right-of-way space where the permit is sought is available, including the placement of the ground equipment;
   b. the potential demands for the particular space in the right-of-way;
   c. the availability of other locations in a right-of-way that would have less public impact;
   d. the extent to which the placement of the telecommunications facilities minimizes impacts on adjacent property; and
   e. the applicability of ordinances or other regulations of the right-of-way that affect location of equipment in the right-of-way;

2) The facility, including attachments other than lighting rods, may not exceed 60 feet in height measured from grade in residential and commercial zones, or 75 feet in industrial zones. The city council may waive this height standard for a facility used wholly or partially for essential public services, such as public safety;

3) The support structure for the antennas cannot exceed the diameter of the closest public utility pole by more than 50 percent, but in no event may exceed 18 inches in diameter;

4) Antennas and other components must not project out from the side of the support structure by more than two feet in residential and commercial districts or three feet in industrial districts;

5) The support structure for the antennas must match the materials and color of the closest public utility structures in the right-of-way, if required by the city planner;

6) Ground mounted equipment will be allowed only if:

   a. the equipment will not disrupt traffic or pedestrian circulation;
   b. the equipment will not create a safety hazard;
c. the location of the equipment minimizes impacts on adjacent
property; and

d. the equipment will not adversely impact the health, safety, or
welfare of the community.

7) Ground mounted equipment must be:

a. set back a minimum of 10 feet from the existing or planned edge
of the pavement;

b. separated from a sidewalk or trail by a minimum of 3 feet;

c. set back a minimum of 50 feet from the nearest intersection right-
of-way line;

d. set back a minimum of 50 feet from the nearest principal
residential structure;

e. separated from the nearest ground mounted telecommunication
facilities in a right-of-way by at least 330 feet;

f. no larger than 3 feet in height above grade and 27 cubic feet in
size in residential districts;

g. no larger than 5 feet in height above grade and 81 cubic feet in
size in non-residential districts; and

h. screened by vegetative or other screening compatible with the
surrounding area if deemed necessary by the city planner;

8) The antennas cannot interfere with public safety communications;

9) The telecommunication facility must be removed and relocated when the
road authority requires the removal and relocation of public utility structures; and

10) Telecommunications facilities within a right-of-way must receive a right-of-
way permit from the appropriate road authority.

l) On-site employees. There must be no employees on the site on a permanent
basis. Occasional or temporary repair and service activities are allowed.

m) Landowner authorization. When applicable, the applicant must provide written
authorization from the property owner. The property owner must sign the conditional use permit
agreeing to the permit conditions, agreeing to remove the telecommunication facilities when
they are unused, obsolete, or become hazardous, and agreeing to the city's right to assess
removal costs under paragraph (n) below.

n) Removal. Obsolete telecommunications facilities must be removed within 90
days after cessation of their use at the site, unless an exemption is granted by the city council.
Unused telecommunications facilities and all related equipment must be removed within one
year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin county tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

   o) Historic Places. No telecommunication tower may be located with 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places. Antennas may be located in this restricted area only if they are hidden from public view.

6. Special Area Requirements.

   a) The special areas of Minnetonka Mills, Glen Lake Station and Minnetonka Boulevard/County Road 101 are recognized within the comprehensive plan as unique neighborhood commercial nodes. They are planned to have improved street appeal including pedestrian walkways with landscaped boulevards and street lights, buried utilities, and coordinated signs and facade improvements. Accordingly, there is a presumption that telecommunication facilities are prohibited in these areas. An applicant may overcome this presumption by submitting an analysis prepared by a radio or electrical engineer showing that no other available location allowed under this ordinance would meet its reasonable coverage and capacity needs. The applicant must pay the reasonable expenses of a radio or electrical engineer retained by the city, at its option, to review this analysis.

   b) If telecommunications facilities are permitted in these special areas under paragraph (a) above, then the installation of telecommunications facilities in these special areas must meet the following additional standards:

      1) Ground-mounted accessory equipment must be placed within a principal building. If space is not available in the principal building, an accessory building may be used if it meets the applicable district standards and is constructed of building materials similar to the principal building; and

      2) Telecommunications facilities cannot be within the right-of-way or within any front yards. The city council may waive one or both of these additional standards if the proposal would provide public benefit, such as improving the current aesthetics of the site.
SECTION 310.03 TELECOMMUNICATION FACILITIES REGULATIONS

1. Purpose and Findings

   a) Purpose. The purpose of this section is to establish predictable and balanced regulations for telecommunication facilities and systems in order to accommodate such within the city, while protecting the community against any adverse impacts to the public welfare or aesthetic resources.

   b) Findings. The City of Minnetonka finds the following:

      1) Wireless telecommunication systems provide a valuable service to the public. However, telecommunications facilities and systems are not a public utility nor part of the public infrastructure system.

      2) To promote and preserve the public health, safety, welfare, and aesthetics of the community, the location, design, construction, and modification of telecommunication facilities and systems must be regulated.

      3) To minimize the visual impact of telecommunication facilities:

         a. installation of facilities on existing support structures is favored over installation of new, freestanding telecommunication towers;

         b. new telecommunication towers must be designed to accommodate more than one telecommunication provider and must incorporate stealth design techniques; and

      4) To minimize safety hazards and visual impacts, and to ensure continued and adequate space for public utilities, public right-of-way should be minimally used for telecommunication facilities.

   c) Severability. Every section, subdivision, clause or phrase of this section 310.03 is declared separable from every other section, subdivision, clause or phrase. If any such part is held to be invalid by competent authority, no other part shall be invalidated by such action or decision.

2. Definitions

For the purpose of this ordinance, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

   a) "Accessory Equipment"—wires, cables, generators, or other equipment or apparatus associated with an antenna and necessary for telecommunication transmission.
b) “Antenna” – any device used for the transmission or reception of wireless radio television, or electromagnetic waves for cellular, internet service, personal communication service, enhanced specialized mobilized radio service, or television purposes.

c) “Engineer” – an engineer licensed by the state of Minnesota, or an engineer acceptable to the city if licensing is not available.

d) “Small Wireless Facility” – a wireless facility that meets both of the following qualifications:

   1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

   2) All other wireless equipment associated with the small wireless facility is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed

e) “Stealth Design” – design intended to minimize visual impact of an object on its surroundings. Examples of stealth telecommunication design include: eliminating horizontal projections; screening with other architectural elements; nestling into surrounding landscape such that natural topography or vegetation reduces views; locating in areas that would result in the least amount of visibility to the public; minimizing size; and designing a telecommunications facility to appear as something other than a telecommunications facility.

f) “Support Structure” – an existing structure on which antenna can be mounted without increasing the mass of the existing structure. Examples of support structures include: telecommunication tower, building, water tower, electrical transmission tower.

g) “Telecommunication Facility” – antennas, associated equipment, and support structures.

h) “Tower” – a freestanding, self-supported structure constructed from grade for the purpose of supporting one or more antenna.

3. Citation; Administration and Enforcement.

   a) Citation. This section 310.03 may be cited as the Minnetonka Telecommunications Ordinance.

   b) Administration and Enforcement. Administration and enforcement of this section 310.03 is governed by section 300.03.

4. Permits; Procedures and Variances.

   a) Administrative Permits. The city planner or their designee may administratively approve permits for the following telecommunication facilities, provided the facilities do not
involve a variance or any other matter requiring consideration by the planning commission or city council:

1) Telecommunication facilities located on electric transmission towers carrying over 200 kilo volts of electricity.

2) Telecommunication facilities located on a telecommunication support structure for which a conditional use permit has already been approved.

3) A one-time 15-foot extension of an existing telecommunication tower or one-time replacement of a telecommunication tower by a tower no greater than 15 feet taller than the original, existing tower up to a maximum height of 90 feet.

4) Telecommunication facilities located on public utility structures within public rights-of-way, if the facility:
   a. Does not extend above the top of the existing utility structure by more than 10 feet;
   b. Is a replacement utility structure that does not exceed 50 feet in height or the height of the existing utility structure, whichever is greater, and does not exceed the diameter of the existing utility structure by more than 50 percent; and
   c. Includes no component larger than six cubic feet in size.

5) Small wireless facilities located on new support structures within public rights-of-way, if the facility is an office, commercial, or industrial zoning district.

b) Conditional Use Permits. Any telecommunication facility that is not eligible for an administrative permit may be allowed only by conditional use permit.

c) Permit Application Procedure.

1) Applications for both administrative and conditional use permits must be on the appropriate form provided by the city and must include all of the following, unless otherwise waived by city staff:
   - Name of the wireless telecommunication provider that will utilize the facility and provider’s consent to the application;
   - Registered land survey;
   - Site plan;
   - Any necessary easements and easement exhibits;
   - Support structure elevations;
   - Construction drawings signed by a registered architect, civil engineer, landscape architect or other appropriate design professional;
   - Coverage and capacity analysis prepared by a radio or electrical engineer that demonstrates that the location of the proposed facility is necessary to meet the coverage and capacity needs of the wireless telecommunication providers system; and
• Cash escrow to cover the reasonable expense of a radio or electrical engineer retained by the city, at its option, to review the coverage and capacity analysis and to conduct an interference study.

2) Administrative permit applications are subject to the review of the city planner or their designee, who will render a decision within time periods provided by Minnesota Statute 15.99 and Minnetonka City Code 1120, as applicable, and will serve a copy of that decision upon the applicant by mail. Any person aggrieved by the decision of the city planner, or their designee, may appeal the decision to the planning commission in the manner specified in section 300.04 of this ordinance.

3) Conditional use permit applications are subject to the review procedures outlined in section 300.06 of this ordinance.

4) A variance from the regulations in this ordinance requires a separate application, according to the procedures in section 300.07 of this code.

5. General Regulations

a) All facilities. All telecommunication facilities, administratively or conditionally permitted, are subject to the following general regulations:

1) Service Provider. A telecommunications service provider must be identified for the proposed telecommunication facility and must occupy the facility within twelve months of approval.

2) Historic Places. No telecommunications facility may be located within 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places.

3) Location. Facilities must be located in an area that will meet the applicant’s reasonable coverage and capacity needs. However, the city may require that a different location be used if it would result in less public visibility, is available, and would continue to meet the applicant’s reasonable capacity and coverage needs.

4) Collocation. New towers must be designed to accommodate more than one telecommunication provider at more than one height within the tower, unless it is physically impossible or impractical to do so at the tower’s proposed location. In addition, the applicant, tower owner, landlord, and their successors must agree in writing to: (1) meet reasonable terms and conditions for shared use; (2) submit a dispute over the potential terms and conditions to binding arbitration.

5) Stealth Design. Facilities must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques.

6) Construction. Telecommunications facilities must be in compliance with all building and electrical code requirements. A tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design,
mounting and installation of the telecommunications facilities must be in compliance with the manufacturer's specifications.

7) **Landowner authorization.** When applicable, the applicant must provide written authorization from the property owner. The property owner must sign the approval document provided by the city agreeing to the permit conditions, agreeing to remove the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city's right to assess removal costs under paragraph (i) below.

8) **Removal.** Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site, unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin County tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

b) **Facilities located within public right-of-way.** In addition to the regulations outlined in the previous section, telecommunication facilities located within the public right-of-way are subject to the following general regulations:

1) Facilities are subject to the requirements of Section 1120, Right-of-Way Management. To the extent that the provisions of Section 1120 are more restrictive than this ordinance, the provisions of Section 1120 govern.

2) Facilities may not impact the public health, safety, or welfare, interfere with safety and convenience of ordinary travel over the right-of-way, or otherwise negatively impact the right-of-way or its users. In determining compliance with this standard, the city may consider one or more of the following factors:

   a. The extent to which right-of-way space is available for the proposed facility, including accessory equipment.

   b. The potential demand for the particular space in the right-of-way have less public impact.

   c. The availability of other locations in the right-of-way that would

   d. The extent to which the facility placement minimizes impacts on adjacent property.

   e. The applicability of ordinances or other regulations that may affect the location of the facility or accessory equipment.
3) Facilities must be removed when required by the road authority.

6. Specific Regulations

a) Facilities located outside of public right-of-way. All telecommunication facilities, administratively or conditionally permitted, are subject to the following specific regulations:

1) Location. Telecommunication facilities may be located within any zoning district. However, on properties guided low-density residential, facilities may only be located on public or institutional property.

2) Height. Maximum tower height, excluding lightning rods, is restricted based on the land use designation of property on which the tower is located:

<table>
<thead>
<tr>
<th>Land Use Designation</th>
<th>Single-User Tower</th>
<th>Multiple-User Tower</th>
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<tbody>
<tr>
<td>Low and Medium Density</td>
<td>60 feet</td>
<td>90 feet</td>
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<tr>
<td>Residential</td>
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<tr>
<td>Institutional</td>
<td>60 feet</td>
<td>90 feet</td>
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</tbody>
</table>

The city council may increase height if the applicant can demonstrate that the increase would not have a significant impact on surrounding properties because of things like proximity, topography, or screening by trees or buildings. The council may likewise waive height restrictions for towers wholly or partially for essential public services, such as public safety.

3) Setbacks. Towers located adjacent to low or medium-density residential properties must meet the minimum setback requirements established for principal structures within the associated residential zoning district, but only from the property line abutting the residential district. The city council may waive the setback requirement if necessary to implement stealth design techniques. Accessory equipment must meet minimum setback requirements established for accessory structures within the zoning district.

4) Horizontal Projection. Antennas may not project out from an antenna support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet.

5) Vertical Projection. Antennas mounted on an antenna support structure may not extend more than 15 feet above the structure to which they are attached. Wall or façade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building.
6) Accessory Equipment. Accessory equipment or buildings must be architecturally designed to blend in with the surrounding natural or built environment or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. No more than one accessory building is permitted for each tower. If additional space is needed to accommodate the co-location of antennas, the existing accessory building must be expanded or a new accessory building must be constructed adjacent and complementary to the existing building. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review under section 300.27 of this code.

7) Color. Antennas and towers must be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized finish to reduce visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

8) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public’s health and safety or unless necessary to facilitate service to ground-mounted equipment.

b) Facilities located within public right-of-way. All telecommunication facilities, administratively or conditionally permitted, are subject to the following specific regulations:

1) Location.

   a. Within residential zoning districts, facilities are only permitted within the rights-of-way of collector or arterial streets as defined in the Comprehensive Guide Plan. However, in no case are facilities permitted within certain village centers as designated in Subdivision 3 of this section.

   b. Facilities are not permitted adjacent to residentially zoned property unless an applicant demonstrates, by providing a study prepared by a radio or electrical engineer, that the proposed location is necessary to reasonably meet the coverage and capacity needs of its system and no other location is feasible in a non-residential area.

2) Height. Maximum height, including attachments other than lightning rods, is restricted based on the land use designation of property adjacent to the proposed facility:

<table>
<thead>
<tr>
<th>Adjacent Land Use Designation</th>
<th>Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>60 feet</td>
</tr>
<tr>
<td>Office, Commercial</td>
<td>60 feet</td>
</tr>
<tr>
<td>Industrial</td>
<td>75 feet</td>
</tr>
<tr>
<td>Institutional</td>
<td>60 feet</td>
</tr>
</tbody>
</table>

The council may waive height restrictions for facilities wholly or partially for essential public services, such as public safety.
3) Width. The support structure or tower cannot exceed the width of the closest public utility pole by more than 50 percent, but in no case may it exceed 18 inches in diameter.

4) Horizontal Projection. Antennas may not project out from a support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than two feet.

5) Vertical Projection. Antennas mounted on an antenna support structure may not extend more than 10 feet above the structure to which they are attached.

6) Facility Separation. Telecommunication facilities must be separated by at least 330 feet.

7) Ground mounted accessory equipment.
   a. Equipment will be allowed only if it will not adversely impact public health, safety, or welfare of the community. In determining compliance with this standard, the city may consider one or more of the following factors:
      1. Whether the equipment will disrupt vehicle traffic or pedestrian circulation.
      2. Whether the equipment location and screening minimizes impact on adjacent properties.
   b. Equipment must not exceed the following size limits:

<table>
<thead>
<tr>
<th>Adjacent Land Use Designation</th>
<th>Maximum Height</th>
<th>Maximum Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>3 feet</td>
<td>28 cubic feet</td>
</tr>
<tr>
<td>Non-Residential</td>
<td>5 feet</td>
<td>81 cubic feet</td>
</tr>
</tbody>
</table>

   c. Equipment must meet the follow setbacks requirements.

<table>
<thead>
<tr>
<th>Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing or planned edge of roadway pavement</td>
</tr>
<tr>
<td>Existing or planned edge of sidewalk or trail</td>
</tr>
<tr>
<td>Nearest intersection right-of-way line</td>
</tr>
<tr>
<td>Nearest principal residential structure</td>
</tr>
</tbody>
</table>

   d. Equipment must be screened by vegetative or other screening compatible with the surrounding area, as required by the city.
8) Color. The support structure or tower must match the materials and colors of the closest public utility structures located within the right-of-way, or as required by the city.

9) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public’s health and safety or unless necessary to facilitate service to ground-mounted equipment.

c) **Facilities located within certain village centers.** All telecommunication facilities, administratively or conditionally permitted, are subject to the following specific regulations:

1) The Glen Lake Station and Minnetonka Boulevard/County Road 101 Community Village Centers, and the Minnetonka Mills Area Special Purpose Village Center are recognized within the Comprehensive Guide Plan as unique commercial nodes. These village centers represent the earliest developed commercial areas in the city. They have existing and anticipated pedestrian designs unique within Minnetonka, typified by sidewalks, trails, landscaped boulevards, street lights, and buried utilities. Accordingly, there is a presumption that telecommunication facilities are prohibited in these areas. An applicant may overcome this presumption by submitting an analysis prepared by a radio or electrical engineer showing that no other available location allowed under this ordinance would meet is reasonable coverage and capacity needs.

2) If telecommunication facilities are permitted in these special village centers under paragraph (a) above, then the installation of the facilities must meet the following additional standards:

a. Accessory equipment must be located within a principal building. If space is not available in the principal building, an accessory building may be used. The accessory building must meet the construction standard of the applicable zoning district and must complement the principal structure design and materials.

b. Telecommunication facilities may not be located within public right-of-way or within any front yard. The council may waive one or both of these restrictions if the proposal would provide a public benefit, such as improving the existing site aesthetics.

7. **Exceptions**

This ordinance does not apply to any facility or device that is used for the private enjoyment of those on the premises where it is located. Examples include: amateur radio antennas and antennas receiving television signals for viewing on site. Such facilities or devices are considered accessory uses and are regulated as such in each zoning district.