

## MILLE LACS COUNTY TOWER ORDINANCE

AN ORDINANCE ESTABLISHING REGULATIONS ON THE LOCATION, CONSTRUCTION AND USE OF COMMUNICATIONS TOWERS AND ANTENNAS WHICH IS NECESSARY TO PROVIDE FOR THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF MILLE LACS COUNTY, STATE OF MINNESOTA.

### 1.1 Purpose and Intent

This Tower Ordinance is enacted to:

- A. Facilitate the provision of wireless telecommunication service to the residents and businesses of Mille Lacs County.
- B. Avoid potential damage to adjacent properties from tower failure and falling ice, through engineering and careful siting of tower structure.
- C. Minimize the adverse visual effects of towers through careful design and siting standards.
- D. Maximize the use of existing and approved towers to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve Mille Lacs County.
- E. Encourage wireless telecommunication service companies to expressly take local zoning and land use patterns into account in their initial tower layout, in contrast to where the initial layout or grid is simply determined by radio engineers with little regard for land use or sensitive areas.

### 1.2 Conditional Use Permit Required

It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, or replace any tower without first making an application to the Mille Lacs County Planning Commission and securing a conditional use permit therefore as herein provided. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit.

### 1.3 Jurisdiction

This ordinance shall be applicable in all areas of the County lying outside the incorporated limits of municipalities.

### 1.4 Definitions

For the purpose of this Ordinance, the following words and phrases are defined and shall be construed as set out below.

#### (A) Antenna

Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, microwave signals, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

#### (B) Commercial Wireless Telecommunication Services

Licensed commercial wireless telecommunication services, including cellular, Personal Communication Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), paging, Local Multipoint Distribution System (LMDS), and similar services.

#### (C) Tower

Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

(D) Free Standing Tower

A tower which has the lower base as the only or primary means of resisting the designed tower loads.

(E) Guy Supported Tower

A tower which required the use of flexible guying cables or wires as the only principle means of resisting the designed tower loads.

(F) Single Use Tower

A tower to which is attached to only the antennas of a single user.

(G) Multi-Use Tower

A tower which is designed to support the antennas of more than one commercial wireless telecommunication service provider.

(H) Tower Height

The distance between the ground on which the tower or tower base sits and the top of the highest appurtenance mounted on the tower.

(I) FCC

Federal Communications Commission.

(J) FAA

Federal Aviation Commission.

## SECTION 1.5 GENERAL REQUIREMENTS

(A) Construction of the tower, accessory buildings, landscaping requirements must be completed within one (1) year of the issuance of the permit.

(B) The telecommunications company shall provide Mille Lacs County with proof of insurance for \$750,000.00 dollars worth of liability coverage for personal and property damage.

(C) Tower owners shall provide to Mille Lacs County, at the time of application, a copy of the lease and other instruments obligating the tower owner and/or the land owner to remove the tower and associated structures upon cessation of operations at the site.

## SECTION 2.0 PROHIBITED USE

(A) All communication towers and accessory structures are prohibited in shoreland and Rum River districts.

(B) No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in case of an emergency situation as authorized by the Mille Lacs County Zoning Administrator. Use of temporary mobile cell sites for testing purposes shall be limited to twenty-four (24) hours. Use of temporary mobile cell sites for equipment failure or in case of an emergency situation shall be limited to a term of thirty (30) days unless authorized by the Mille Lacs County Zoning Administrator.

## SECTION 2.1 PERMITTED USE.

(A) A tower that is erected solely for non-commercial individual use such as: television antennas, satellite dish, microwave receiving dish, or amateur radio antennas, shall be permitted use in all districts provided that the proposed tower will meet all applicable setbacks as required by the Mille Lacs County Zoning Ordinance.

(B) In accordance with the FCC's ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennas may exceed 12 feet in height, provided that the proposed tower will meet all applicable setbacks as required by the Mille Lacs County Zoning Ordinance.

### SECTION 3.0 LOCATION REQUIREMENTS

(A) The location of any telecommunications tower shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport, and shall meet all applicable Federal Aviation Administration (FAA) standards.

(B) The placement, height, and setbacks for towers shall meet the minimum requirements as described in this ordinance.

### SECTION 3.1 CO-LOCATION REQUIREMENTS

A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be reasonably documented by the applicant that the telecommunication equipment planned for the proposed tower can not be accommodated on an existing or approved tower within one mile search radius (one half mile search radius for towers under 120 feet in height) 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 or approved tower, as documented by a qualified and licensed tower engineer.

(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 radio frequency engineer.

(C) Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency engineer.

(D) In spite of best efforts, within 60 days, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on the existing tower as determined by the Mille Lacs County Board of Commissioners.

(E) Other reasons effecting technical performance, system coverage and system capacity that make it impractical to place or locate the planned telecommunication equipment upon an existing approved tower as documented by a qualified and licensed professional radio frequency engineer.

### SECTION 4.0 TOWER DESIGN REQUIREMENTS

Proposed construction or modification of towers shall meet the following design requirements:

(A) Towers shall be designed to blend into the surrounding environment to the maximum extent possible through the use of color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

### SECTION 5.0 TOWER SETBACKS

Towers shall conform with each of the following minimum setback requirements:

(A) Free standing towers shall be located so that the distance from the base of the tower to the adjoining property line is a minimum of 150 percent of the proposed tower height in agricultural and commercial zoned land, and 200 percent of the proposed tower height in residential zoned land.

(B) Guy supported towers shall be located so that the distance from the base of the tower to the adjoining property line is a minimum of 100 percent of the proposed tower height in agricultural and commercial zoned land, and a minimum of 150 percent of the proposed tower height in residential zoned land.

(C) The tower, guy wires and anchors shall not encroach upon any easements.

(D) A towers setback may be reduced at the discretion of the Mille Lacs County Board of Commissioners, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

(E) No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk or property line.

#### SECTION 6.0 TOWER HEIGHT

(A) Shared use of towers, (multi-use towers) will cut down the number of towers in the County. Therefore all designated single use towers shall not exceed 160 feet.

(B) All proposed multi-use towers shall not exceed 180 feet unless topographical conditions such as swamps or other conditions such as: airports, high-density residential and shoreland zones and other conditions that would require a less than ideal placement, then 200 feet would be permitted at the discretion of the Mille Lacs County Board of Commissioners.

(c) All proposed cell-phone towers over 200 feet would be permitted only on a special conditional use permit at the discretion of the Mille Lacs County Board of Commissioners.

#### SECTION 7.0 TOWER LIGHTING

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower or if required by the Mille Lacs County Board of Commissioners for security or safety reasons. This provision shall not preclude the placement of an antenna on an existing or proposed lighting standard.

#### SECTION 8.0 SIGNS AND ADVERTISING

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

#### SECTION 9.0 ACCESSORY UTILITY BUILDINGS

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet such setback requirements of the zoning ordinance. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Two accessory buildings not more than 800 square feet total for both buildings shall be permitted. Outside storage will be permitted on any telecommunication facility site with approved screening.

#### SECTION 10.0 ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS

Notice shall be provided to the Mille Lacs County Zoning Administrator when the tower is placed out of service. Towers which are not used for a period of one year shall be removed by the owner within six months of receipt of notification to that effect. In the event the tower is not removed within the six month period, the tower and associated facilities may be removed by the Mille Lacs County and the costs of removal be billed to the tower owner and/or assessed against the land owner.

#### SECTION 11.0 COMMERCIAL ANTENNAS MOUNTED ON EXISTING TOWERS

The placement of wireless telecommunications antennas on approved existing towers by a corporation or communication business who will share the approved existing tower shall comply with all applicable regulations of this ordinance and also apply for and receive a zoning permit from the Mille Lacs County Zoning Administrator before installation, so Mille Lacs County can comply with the anti-discrimination provisions of the 1996 Telecommunications Act.

#### SECTION 12.0 INTERFERENCE WITH TELECOMMUNICATIONS

No new or existing telecommunications service shall interfere with public safety telecommunications, or private telecommunications, including without limitation to: radio, television, and personal communications in accordance with rules and regulations of the Federal Communications Commission.

## SECTION 13.0 APPLICATION

A conditional use permit shall be obtained prior to the placement and construction of communications towers. Towers shall be registered at the time the permit is obtained. Each application for a permit shall include the following information supplied by the tower owner, operator, or contractor installing the communications tower.

### (A) REGISTRATION INFORMATION

1. Name and address of tower owner.
2. Name and address of tower operator.
3. Name, address, phone number and title of primary contact person,.
4. Name and address of the property owner and a legal description of the tower location.

(B) A site plan, professionally prepared, drawn to scale of, one (1) inch equals fifty (50) feet unless a different scale is approved by the Mille Lacs County Zoning Administrator. The plan shall show the property boundaries, tower, guy wire anchors (if any), existing structures, proposed transmission buildings, and/or other accessory uses, access, parking, fences, landscape plan, and existing land uses adjoining the site.

(C) Plans and specifications from a registered licensed professional engineer experienced in the design and/or analysis of communication towers. The plans and specifications shall include:

- A. Tower height;
- B. Type of structure;
- C. Type of materials;
- D. Specification for materials used for structural elements of the tower;
- E. Name of the tower manufacturer;
- F. Soils investigation (where required for footing design);
- G. List of the type and location of all antennas, cables and other appurtenances which will be installed at the time the tower is erected.
- H. List of the type and location of all antennas, cables, and other appurtenances which may or could be installed in the future.

(D) A report from a licensed qualified engineer that, to the best of the engineers knowledge, information, and belief, the proposed structure has been designed in accordance with the current version of ELA-222 structural standards for steel antenna tower and antenna support. Structures.

(E) A written statement certifying that all FAA and FCC requirements will be met or addressed.

(F) All commercial wireless telecommunication service tower owners shall submit to the Mille Lacs County Zoning Administrator a letter of intent committing the tower owner and his/her successors to allow the shared use of the tower, if an additional user agrees in writing to meet reasonable terms and conditions for shared use including without limitation reasonable rental rates for such shared use.

(G) All abandoned or unused tower and associated facilities shall be removed as per Section 10 of this Ordinance. A copy of the relevant portions of a signed lease which required the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application.

## SECTION 14.0

All antennas and towers erected and constructed within Mille Lacs County and all writing therefor, shall comply with the following requirements:

- (A) All applicable provisions of this Ordinance.
- (B) Tower designs shall be constructed to the current version of ELA-222.

(C) Towers and antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(D) Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons. The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least 8 feet in height with an additional 3 strands (12 inches minimum) of barbed wire attached to the top of the fence, with a locked gate, unless the tower and all guy wires are mounted entirely on a building over 8 feet in height. The tower guy anchors may be fenced separately in order to comply with the requirements of this section.

(E) Within three (3) months after tower construction, the tower owner shall supply a report stating that the tower has been constructed and installed according to the design submitted to obtain the tower permit. This report shall be accompanied by "as-built" drawings and submitted to the Mille Lacs County Zoning Administrator.

#### SECTION 15.0 EXISTING ANTENNAS AND TOWERS

Antennas and towers in existence as of the effective date of this ordinance, that do not conform to or comply with this Section are subject to the following provisions:

(A) Towers may continue in use for the purpose now used and as now existing but may not be replaced or materially altered without complying in all respects with this Section.

(B) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a zoning permit therefore, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would exceed the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Ordinance.

#### SECTION 16.0 TOWER REGISTRATION

All owners or operators of commercial towers shall register their towers with the Mille Lacs County Zoning Administrator within six (6) months of the publication of this ordinance. Registration shall include the following information:

- (1) Name and address of the tower owner;
- (2) Name and address of the tower operator;
- (3) Name, address, phone number and title of primary contact person.
- (4) Name, address of property owner and legal description of the tower location;
- (5) Principal use of the tower;
- (6) Tower height;
- (7) A list of appurtenance mounted on the tower including model numbers, if available, and their location on the tower, or a drawing indicating the location;
- (8) Site plan which clearly delineates distance to the adjoining property line from the base of the tower.
- (9) Date of the last inspection performed on the tower;
- (10) Date the tower was originally erected.

#### SECTION 17.0 TOWER INSPECTIONS

The following requirements shall apply to all existing and all future towers in Mille Lacs County:

(A) Tower inspection records shall be kept by the tower owner and made available upon request to Mille Lacs County Zoning Administrator during regular business hours.

(B) At least once every twelve (12) months a visual inspection from the ground shall be conducted by the tower owners or operators or tower consultants. This inspection shall include but not limited to, a visual inspection of tower foundations, structures, guys, and connections for evidence of settlement or lateral movement, soil erosion, condition of paint or galvanizing, rust or corrosion, loose or missing bolts, loose or corroded lightening protection connectors, tower plumbness significant variation in guy sags (I.e. guy tensions), and other material areas of matters relating to the structural integrity of the tower. This is considered a minor inspection.

(C) At least once every thirty-six (36) months the tower shall be inspected by a expert who is regularly involved in maintenance, inspection, and/or erection of communication towers. AT a minimum, this inspection shall be conducted in accordance with the provisions of this ordinance and in accordance with the tower inspection check list provided in th3e ELA-222 as applicable. This is considered a major inspection.

(D) In addition to the regularly scheduled major and minor inspections set forth in paragraphs B and C above, a minor inspection at a minimum, shall be conducted if the tower or its appurtenances are noted at any time to be visibly damaged. Additionally a major inspection should be conducted if the visible damage to the tower is significant or when after conducting a minor inspection, significant questions remain about the structural integrity of the tower.

#### SECTION 18.0 VIOLATIONS

Any person who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor.

#### SECTION 19.0 RIGHT TO APPEAL

Appeals of order, decisions or determinations relative to site and structure requirements, screening, fencing and sign requirements of this Ordinance shall be heard and decided by he Mille Lacs County Board of Adjustment as established and authorized in the Mille Lacs County Zoning Ordinance.

#### SECTION 20.0 FEES

The Mille Lacs County Board of Commissioners shall, from time to time, establish by resolution, fees for registration, processing, and permitting of communication towers. No application shall be considered filed with the County unless and until said application is accompanied by the fee, as established by resolution.

#### SECTION 21.0 SEVERABILITY

Should any section clause, sentence, or part of this Ordinance be adjusted by any Court of competent jurisdiction to be unconstitutional or invalid, the same shall not effect, impair, or invalidate this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

#### SECTION 22.0 SAFETY CLAUSE

The Mille Lacs County Board of Commissioners hereby finds, determines, and declared that this Ordinance is necessary for the immediate preservation of the public welfare, health, and general safety.

#### SECTION 23.0 EFFECTUATION

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