

ORDINANCE NO. 01-5166

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA, CITY CODE BE AMENDED BY REVISING SECTIONS 27-619 AND 27-620; PROVIDING UPDATED DEFINITIONS; EXEMPTING BROADCAST FACILITIES FROM THIS SECTION AND REGULATING THESE FACILITIES UNDER SECTION 27-621. LIMITING HEIGHT AND NUMBER OF ANTENNA SUPPORT STRUCTURES IN CERTAIN ZONING DISTRICTS; ALLOWING A REVIEW PROCEDURE FOR PROPOSED ANTENNA SUPPORT STRUCTURES AND ANTENNAE ON GOVERNMENT-OWNED PROPERTIES; REGULATING THE LOCATION, CONSTRUCTION, HEIGHT AND CO-LOCATION REQUIREMENTS OF ANTENNA SUPPORT STRUCTURES, ANTENNAE AND WIRELESS COMMUNICATIONS FACILITIES; REQUIRING ANTENNA SUPPORT STRUCTURE SEPARATION; REQUIRING CERTAIN APPLICATION SUBMITTAL INFORMATION FOR WIRELESS COMMUNICATION FACILITIES; AND, REDUCING THE EXPIRATION OF SPECIAL REVIEW PERIOD.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

**Section 1.** That section 27-619 of the Billings, Montana, City Code be amended so that such section shall read as follows:

**Sec. 27-619. Standards For Amateur Radio ~~T~~Antenna Support Structures**

**A. Definitions.** For the purposes of this section, the terms used shall be defined as follows:

- 1. Amateur Radio ~~T~~Antenna:** A ground-, building- or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, 49 CFR § 97 and as designated by the Federal Communications Commission (FCC).
- 2. Amateur Radio Antenna Support Structure:** Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing amateur radio antennae. The term includes the structure and any support thereto.
- 3. Antenna/Tower Antenna Support Structure Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**B. General Provisions.** All amateur radio towers shall comply with the following requirements:

1. Amateur radio antenna support structures and antennae shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.

2. Amateur radio antenna support structures and antennae exceeding six (6) feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
3. It is recommended that amateur radio antenna support structures be designed, installed, and maintained so as to blend into the surrounding environment through the use of color and alternative designs, except in instances where the color is dictated by the Federal Aviation Administration (FAA).
4. In accordance with the FCC's preemptive ruling PRB1, 101 FCC 2d 952 (1985), ~~towers~~antenna support structures erected for the primary purpose of supporting amateur radio antennae may exceed the height limitations of the underlying zoning as indicated in section 27-305, BMCC.
5. Attachments to amateur radio antenna support structures, such as guy wires, shall not cross any property line or any existing or proposed easement.
6. No lighting shall be permitted on any amateur radio ~~towers~~antenna support structures except as mandated by the FAA.
7. No signage, other than required warning signs, or displays of any type shall be permitted on any amateur radio antenna support structure.

#### **C. Applicability**

All amateur radio antenna support structures and antennae located within the City of Billings and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this ordinance/resolution. This ordinance/resolution shall apply to amateur radio antenna support structures and antennae upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this ordinance/resolution.

- Pre-existing amateur radio antenna support structures or antennae. Pre-existing amateur radio antenna support structures and pre-existing amateur radio antennae shall not be required to meet the requirements of this ordinance/resolution, so long as said pre-existing antenna support structures and antennae have received all required approvals, permits and exceptions prior to adoption of this ordinance/resolution.

**Section 2.** That section 27-620 of the Billings, Montana, City Code be amended so that such section shall read as follows:

#### **Sec. 27-620. Standards For Telecommunications AT Wireless Communication Facilities**

##### **A. Purpose.**

The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:

1. Encourage the location of antenna support structures in non-

residential areas and minimize the total number of ~~towers~~antenna support structures throughout the community;

2. Strongly encourage the joint use of new and existing antenna support structures;
3. Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
4. Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae; and
5. Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.

## **B. Definitions.**

### **1. Abandoned ~~or~~Antenna Support**

**Structures:** Any antennae or antenna support structures that are not utilized for the provision of wireless communications services for a continuous period of six (6) months shall be considered abandoned.

### **2.**

**Alternative antennae support structure:** An antenna support structure designed to shield, conceal or disguise the presence of antennae or towers and blend with the surrounding setting. Alternative structures may include, but are not limited to, unobtrusive architectural features on new or existing structures, utility poles, clock towers, flagpoles and church steeples. Examples of alternative antenna support structures are illustrated in subsection O of this Section.

**3. Antenna:** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae, such as panels, microwaves dishes, and satellite dishes, and omnidirectional antennae, such as whip antennae but not including satellite earth stations.

**4. Antenna support structure:** Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures, and the like. The term includes the structure and any support thereto. Types of antenna support structures are illustrated in subsection O of this Section. Land mobile radio and radio and television antenna support structures are regulated under Section 27-621 of these regulations.

**5. Antenna/~~T~~ Antenna Support Structure Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the

support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. The height of roof-mounted antenna support structure height does not include the height of building on which they are mounted.

6. **Wireless Communication Facility Antenna or Tower Farm:** An antenna or tower farm is a tract of land which contains no more than three (3) antenna support structures within seven hundred fifty (750) linear feet of each other. No antenna support structures located in tower farms shall exceed two hundred fifty (250) feet in height. Legal tracts must be adjacent to each other to be included in this definition.
7. **Co-location:** The use of a wireless communications facility by more than one wireless communications provider.
8. **Commercial Wireless Communications Services:** Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
9. **Equipment enclosure:** A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.
10. **Wireless Communication Facility:** An unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.
11. **FAA:** Federal Aviation Administration.
12. **FCC:** Federal Communications Commission.

#### C. **Applicability.**

All wireless communication facilities ~~towers or antennae~~ located within the City of Billings and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this ordinance/resolution. This ordinance/resolution shall apply to wireless communication facilities upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this ordinance/resolution.

1. Amateur radio stations and antenna support structures (See sections 27-305; 27-306 and 27-619, BMCC.)
2. Antennae and antenna support structures for land mobile radio and radio and television (See sections 27-305, 27-306 and 27-621 BMCC).
2. )

3. Pre-existing antenna support structures or antennae. Pre-existing antenna support structures and pre-existing antennae shall not be required to meet the requirements of this ordinance/resolution, so long as said pre-existing antenna support structures have received all required approvals, permits and exceptions prior to adoption of this ordinance/resolution. (See subsection H of this Section.)

**D. Commercial antenna support structures and antennae located in residential zoning districts.**

1. Antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
  - a) Alternative antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than twenty (20) feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. 4.

Proposed antennae or antenna support  
structures that are contrary to this section are subject to the special review  
requirements as provided in Sections 27-1503 and 27-1509 of these zoning  
regulations, or may be submitted to the Board of Adjustment for a hearing,  
whichever is the preference of the owner/agency. The Board of Adjustment  
shall hold a public hearing at a time requested by the owner/agency, in  
accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of  
Adjustment shall forward comments and recommendations to the affected  
government agency for their consideration.

2. Antenna support structures and antennae shall be permitted in the Agricultural-Open Space (AO) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
  - a) Antenna support structures conforming to all applicable provisions of this Code shall be permitted when:
    1. Located on Church, school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antenna are used. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government

agency for their consideration.

2. Antenna support structures ~~Commercial towers~~ fifty (50) feet or less in height.

- b) ~~Commercial towers~~ which Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
- c) Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
- d) Wireless communication facility tower farms are permitted by special review.

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- b. \_\_\_\_\_
- 2. sub(e) \_\_\_\_\_
- 3. 7-901, BMCC. Antennae \_\_\_\_\_
- 4. (e) \_\_\_\_\_
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_
  - c) \_\_\_\_\_
  - d) \_\_\_\_\_
- 5. \_\_\_\_\_

F. \_\_\_\_\_

E. Commercial antenna support structures and antennae located in commercial zoning districts

- 1. Alternative antenna support structures shall be permitted as an allowed use in all commercial zoning districts.
- 2. Antenna support structures shall be permitted as an allowed use in all commercial zoning districts when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government agency for their consideration.
- 3. Antennae co-located on existing alternative antenna support structures or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
- 4. Antenna support structures and antennae located in Residential Professional (RP), Neighborhood Commercial (NC), and Entryway Mixed Use (EMU) that

do not meet the requirements of subsections E 1, E 2, and E 3 shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.

5. New antenna support structures erected in the Medical Corridor shall be required to follow the permit zoning approval procedures in Section 27-901, BMCC. Antennae may be placed on existing antenna support structures and alternative antenna support structures that have previously received all required approvals and permits and meet the provisions and requirements of these regulations, without obtaining permit zoning approval.
6. Antenna support structures and antennae located in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI), South 27<sup>th</sup> Street, Central Business District (CBD), Entryway Light Commercial (ELC), Entryway General Commercial (EGC), Entryway Light Industrial (ELI) and Public (P) zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections E 1, E 2, and E 3, or:
  - a) Roof-mounted antenna that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in subsection 10. b).
  - b) Antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
  - c) Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
  - d) Wireless communication facility tower farms are permitted with special review approval, except in the CBD and South 27<sup>th</sup> Street zoning districts.
7. All antenna support structures located in Heavy Industrial (HI) shall be permitted as an allowed use, including tower farms.

#### **F. Antenna support structures located in parks.**

The presence of certain wireless communication facilities may conflict with the purpose of some city and county owned parks. Wireless communication facilities will be considered only following a recommendation by the City-County Planning Department; the City Parks, Recreation, and Cemetery Advisory Board or County Parks Board, and approved by the City Council or County Commission. Factors that will be considered include:

1. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
2. Commercial recreation areas and major playfields; and,
3. Park maintenance facilities.

#### **G. General requirements.**

The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this ordinance/resolution.

1. **Building codes and safety standards.** To ensure the structural integrity of wireless communication facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such wireless communication facilities, as amended from time to time.
2. **Regulatory compliance.** All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies any other agency of the state or federal government with the authority to regulate facilities governed by this ordinance. All wireless communication facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations.

3. **Setbacks:**

- a) **Antenna support structures adjacent to residential uses or zoning.** Antenna support structures must be set back, from all property lines, a distance equal to ~~the one-half (1/2)~~ the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a fifteen (15) foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
- b) **Commercial and industrial zoning setbacks** Antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.

4. **Lot coverage and height:** Antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.

5. **Fencing and buffering.**

- a) **Fencing.** A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residential uses and residentially zoned property.
- b) **Landscaping.** For all facilities ~~residentially zoned~~ parcel the following will be required: a ~~combination of hedges (firs or other fast growing plants) and/or continuous~~ evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes.

A performance bond or letter of credit for one hundred fifty percent (150%) of the landscaping and fencing materials and labor costs shall be posted with the Planning Department, prior to building permit approval, to ensure the placement of required landscaping and fencing in accordance with Section 27-1110, BMCC.

- c) **Commercial landscaping.**

Landscaping requirements shall not apply to antenna support structures located in the Heavy Industrial (HI) zoning district.

**d) Exceptions for City Airport Airfield Area.** If federal safety and security standards within the city airport's airfield area prevent an antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.

**6. Lighting.** Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to twenty (20) feet high on the tower, and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower.

Cut-off security lighting must be used adjacent to residential uses or residentially zoned lots. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.

**7. Signage.** Signage shall be limited to non-illuminated warning and equipment identification signs.

**8. Co-location.**

**a)** Antenna support structures should be designed in all respects to accommodate both the applicant's antennae and antennae for at least two (2) additional comparable antennae if the antenna support structure is over one hundred (100) feet in height or for at least one (1) additional comparable antennae if the tower is between fifty (50) feet and one hundred (100) feet in height.

**b)** All new antennae must co-locate on existing or approved antenna support structures or alternative antenna support structures unless it can be demonstrated co-location is not feasible as provided for in subsection K.7.

**9. Maintenance.**

**a)** Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.

**b)** All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the city and/or county, so as to be safe, orderly, attractive, and in conformity with city and/or county codes including those regarding the removal of weeds, trash, and landscape maintenance.

**10. Visual impact/aesthetics.**

- a)** Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
- b)** If an antenna is installed on a structure other than a tower, the antenna and associated 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. Antennae and
  - antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.

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~~may replace and/or repair such tower in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provision of these regulations.~~

c. Roof-mounted antennae and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other architectural elements. Only monopole antennae support structures with omni-directional (whip) or low profile single-directional (panel) shall be installed on building roofs. Examples of acceptable designs are shown in subsection Q of this ordinance. Crow's nest antennae arrays are prohibited on roof-top structures.

d. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.

e. Wireless communication facilities shall be located as to minimize their visibility and not be placed within historic or scenic view corridors as designated by the Billings City Council or the Yellowstone County Commission, or by any state or federal law or agency.

**11. Antenna support structure separation.** All antenna support structures over fifty (50) feet in height, regardless of the zoning district in which the structure is located, shall be located at least one (1) mile from any other antenna support structure that is over fifty (50) feet. Up to three (3) antenna support structures located within an approved wireless communication facility tower farm shall be located at least one (1) mile from any other tower farm.

Exceptions to the terms of subsection G 11 may be granted by the governing body during the special review process when it is found that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna or a critical need exists for the proposed location and it is technically infeasible to locate or co-locate structures at or beyond the required separation distance.

#### **H. Nonconforming wireless communication facilities.**

Antenna support structures and/or facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, (nonconforming antenna support structures) are subject to the following provisions:

- 1. Nonconforming antenna support structures** may continue their present use, but may not be expanded or increased in height without complying with these regulations, except as further provided in this section.
- 2. Nonconforming antenna support structures** which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than fifty (50) percent of its replacement the antenna support structure must be brought into compliance with these regulations.
- 3. The owner of any nonconforming antenna support structure** may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.

#### **I. Modifications of existing wireless communication facilities that meet the requirements of these regulations.**

- 1. Minor modifications.** Minor modifications to facilities permitted under these regulations shall be approved by the City-County Planning Department so long as they comply with the original approved design. Minor modifications are as follows: the addition of more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.

**2. Major modifications.** Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.

**J. Abandonment.**

Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the City-County Planning Department, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:

1. Re-use the facility, or transfer the facility to another owner who will re-use it; or
2. Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the city and/or county may remove the facility at the facility and/or property owner's expense. If the facility is removed, city and/or county approval of the facility will expire.

If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the City-County Planning Department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.

**K. Special Review submittal requirements.**

The applicant of new wireless communication facilities shall provide the following documentation for review by the City-County Planning Department:

1. A map to scale showing the service

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or area of the proposed wireless communication facility and an explanation of the need for that facility.

2. A site/landscaping plan showing the following items:

- a) North arrow.
- b) The location and dimensions of all vehicular points of ingress and egress, drives, alleys and streets.
- c) Property boundaries and lot line dimensions.
- d) The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
- e) Setbacks from all property boundaries for existing and proposed structures and buildings.
- f) Centerline and names of major and minor arterial streets relevant to the application.
- g) Elevation drawing of proposed wireless communication facility including the antenna support structure, antenna platforms and associated equipment enclosures. Also indicate the maximum number of antenna platforms that can be supported.
- h) Detailed landscaping plan of the site.
- i) Location of artificial light sources and the areas of illumination.
- j) Applications for tower farms shall include items a through i and an overall development plan showing the location of future structures and equipment enclosures.
- k) Latitude, longitude and height of proposed antenna support structures.
- l) Other pertinent features as determined by the Zoning Coordinator or Development Review Committee.

3. Area map showing the property boundaries of adjacent property and the location of existing buildings.

4. Inventory of existing and approved sites. Each applicant for one or more antenna support structure shall provide to the City-County Planning Department a map showing the locations and service area of existing and

approved antenna support structures operated or utilized by the applicant, including specific information on the location, height, and design of each antenna support structure. The City-County Planning Department shall maintain an inventory of existing and approved antenna support structures, including specific information about the location, height, and design of each antenna support structures. The city may share such information with other persons, organizations or governmental authorities.

5. Documentation of minimum light requirements from the FAA or other local, state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of comments from the FAA.
6. When the applicant is a wireless service provider, proof that the applicant is licensed by the FCC to provide the wireless communication services that the proposed facility is designed to support.
7. Availability of suitable existing or approved antenna support structures. No new antenna support structure shall be permitted unless the applicant clearly demonstrates, in writing, to the reasonable satisfaction of the City-County Planning Department that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna. Closer separation distances may be approved if the applicant clearly demonstrates a critical need for the alternative location and the infeasibility of locating or co-locating wireless communication facility at or beyond the required separation distance. Evidence submitted to demonstrate that no existing or approved structure can accommodate the applicant's proposed antenna must include a discussion of the following items, if relevant.
  - a) No existing or approved antenna support structures are located within the geographic area required to meet the applicant's engineering requirements.
  - b) Existing or approved antenna support structures are not of sufficient height to meet the applicant's engineering requirements.
  - c) Existing or approved antenna support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.
  - d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved antenna support structures, or the antenna on the existing or approved antenna support structures would cause interference with the applicant's proposed antenna.
  - e) The fees or costs required to share an existing or approved antenna support structure or to adapt an existing or approved antenna support structures for sharing are unreasonable. Costs below new tower development are presumed reasonable.
  - f) Property owners or owners of existing or approved antenna support structures are unwilling to accommodate the applicant's needs.
  - g) The applicant demonstrates that there are other limiting factors that render existing or approved antenna support structures unsuitable.

**8.** Co-location agreement. If co-location is feasible, the owner of the antenna support structure shall certify, prior to permit approval, that the owner will accept for co-location any FCC licensed wireless communication provider using compatible technology on commercially reasonable terms up to the antenna support structure's capacity to accommodate additional antennae. The applicant shall also include a statement on how requests for co-locators will be processed.

**9.** Effect of surrounding property values. The applicant must submit information that substantiates there will be no adverse effects on surrounding property values resulting from the proposed facility.

**L. Special review uses.**

1. A request for a special review shall be initiated by application to the City-County Planning Department and handled in accordance with the special review procedure provided in section 27-1503 and 27-1509 of these zoning regulations. The Billings City Council or Yellowstone County Commission may issue special review approval under these sections provided they have determined that the requirements ~~subs(g)~~ of these regulations have been satisfied and, further, that the benefits of and need for the proposed wireless communication facilities are greater than possible depreciating effects and damage to neighboring properties.

2. In granting special review approval, the Billings City Council or Yellowstone County Commission may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed wireless communication facilities on surrounding properties.

3. Expiration of special review approval.

a) A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the City Council or County Commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a permanent foundation for the antenna support structure. The City Council and/or County Commission may grant one (1) six (6) month extension of the period to start construction upon written request by the applicant.

b) The City Council or County Commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the City Council or County Commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.

c)

**M. Appeals.**

Appeals from any decision of the City-County Planning Department may be taken by any person aggrieved or any official of the city or county affected by the decision of the City-County Planning

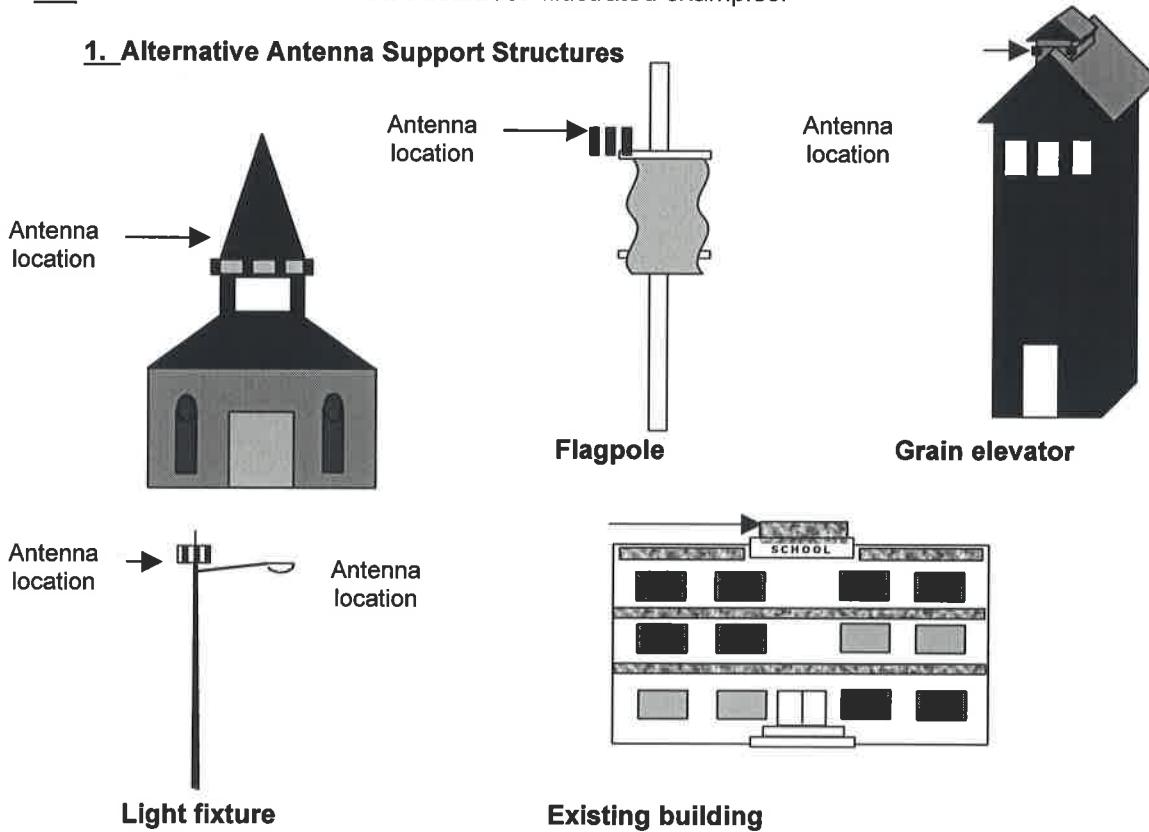
Department. Such appeal shall be to the City and/or County Board of Adjustment pursuant to Section 27-1506 or Section 27-1511 of the City of Billings and Yellowstone County Unified Zoning Regulations.

#### N. Nuisances.

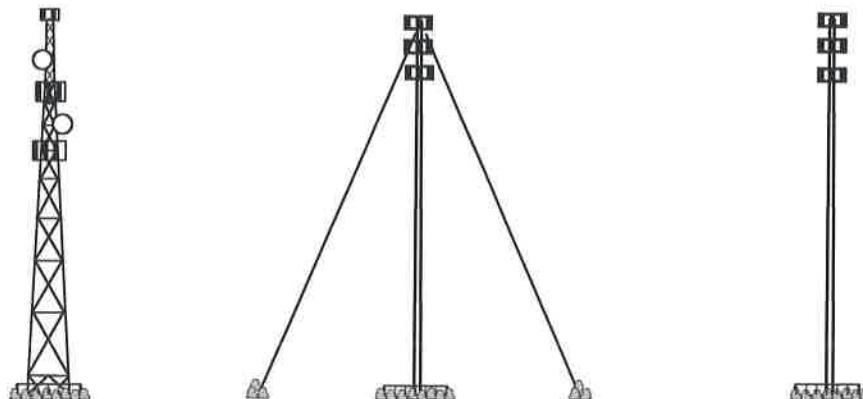
**Telecommunications** Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the city and/or county noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

#### O. Wireless Communication Facilities. Illustrated examples.

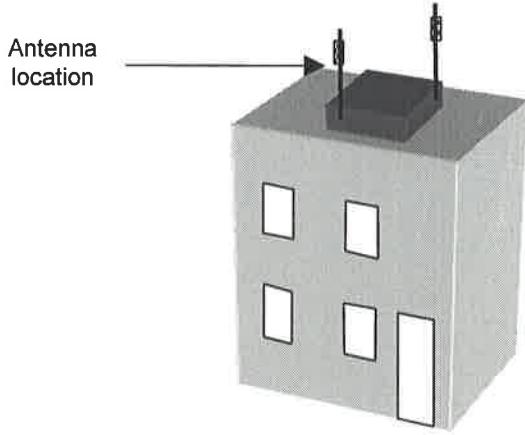
##### 1. Alternative Antenna Support Structures



##### 2. Antenna Support Structures



### **3. Roof-mounted Antenna Support Structures and Antennae**



Section 3. **EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 4. **REPEALER**. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 5. **SEVERABILITY**. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 23<sup>rd</sup>. day of July, 2001.

PASSED, ADOPTED and APPROVED on second reading this 13<sup>th</sup>. day of August, 2001.

CITY OF BILLINGS

By Charles F. Tracy  
Mayor

ATTEST:

By Marita Herold  
City Clerk