

CHAPTER 13 - REGULATIONS FOR TELECOMMUNICATION FACILITIES, RADIO, SATELLITE AND TELEVISION ANTENNA TOWERS AND DISHES

SECTION:

6-13-1: - PURPOSES:

The purposes of this Chapter are to:

1. Provide for the appropriate location and development of communication towers and antennas to serve the residents and businesses of the City;
2. Minimize adverse visual effects of towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
3. Prevent harm to the health and welfare of Naperville and its citizens through engineering and location restrictions;
4. Avoid situations where towers and antennas can adversely impact municipal utility security, operation and maintenance efforts;
5. Maximize use of any new and existing telecommunications facilities so as to minimize the need to construct new telecommunications facilities and minimize the total number of such facilities throughout the City;
6. Maximize and encourage use of alternative tower structures (e.g., camouflaged and concealed antennas) as a primary option and discourage the construction of additional single use towers; and
7. Encourage and promote the location of new telecommunications facilities in areas which are not zoned for residential use.

6-13-2: - DEFINITIONS:

As used in this Chapter, the following terms shall have the meanings indicated:

ALTERNATIVE TOWER STRUCTURE:	Manmade structures such as clock towers, bell towers, church steeples, water towers, light poles and similar alternative design mounting structures that camouflage or conceal the presence of towers and antennas.
ANTENNA:	Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, video programming, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. For purposes of this Chapter, "antenna" shall include "personal wireless facilities", as referenced in Section 704 of the Telecommunications Act of 1996.
CAMOUFLAGED:	The use of shape, color, and texture to cause an object to appear to become a part of something else, usually a structure, such as a building, wall or roof. Camouflage does not mean "invisible", but

	rather appearing as part or exactly like the structure used as a mount.
CELL:	A single specified geographic area within a cellular provider's broad cellular geographic service area (CGSA) served by a single antenna facility and to which a single radio frequency is assigned.
CONCEALMENT:	Fully hidden from view. For example, an antenna is concealed when it is completely hidden or contained within a structure, such as a building, roof or wall.
DIRECTOR:	The Director of the Transportation, Engineering and Development Services or his or her designee.
EQUIPMENT ENCLOSURE/BUILDING:	A structure, shelter, cabinet, box or vault designed for and used to house and protect electronic equipment necessary and/or desirable for processing wireless communication signals and data, including any provisions for mechanical cooling equipment, air conditioning, ventilation or auxiliary electric generators.
FAA:	The federal aviation administration.
FCC:	The Federal Communications Commission.
GUY TOWER:	A communication tower that is supported in whole or in part by guywires and ground anchors.
HEIGHT OR TOTAL HEIGHT:	The distance measured vertically from the bottom of the base of the structure being measured (e.g., tower) mounted at either roof or ground level, whichever is applicable. The height of a tower shall include the height of any antennas which may be attached to the tower.
INTERFERENCE:	The disruption of communications broadcast signals from any other broadcast transmitting or receiving equipment whether located on the site or not. For the purposes of this Chapter, interference is defined in the rules and regulations of the Federal Communications Commission.
LATTICE OR SELF-SUPPORTING TOWER:	A communications tower that has open framed supports on three (3) or four (4) sides and is constructed without guywires and ground anchors.
MONOPOLE:	A communications tower consisting of a single pole constructed without guywires or ground anchors.
MOUNT:	Any mounting device or bracket which is used to attach an antenna to a street pole, building, structure, or monopole.

PERSONAL WIRELESS SERVICE FACILITIES (PWSF):	Any unstaffed facility for the transmission and/or reception of personal wireless services.
PERSONAL WIRELESS SERVICES (PWS):	Any of the technologies as defined by Section 704(a)(7)(c)(i) of the federal Telecommunications Act of 1996, including cellular, PCS, enhanced specialized mobilized radio, and paging.
RECEPTION WINDOW:	A location at which a communication signal can be received or sent by a functioning antenna or satellite dish.
SATELLITE DISH:	A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow disk, cone, or horn. Such device transmits and/or receives radio or electromagnetic waves between earth based and/or orbitally based satellites. This definition includes, but is not limited to, satellite dishes included as "personal wireless facilities", as referenced in Section 704 of the Telecommunications Act of 1996, as well as what are commonly referred to as satellite earth stations, television reception only antennas and satellite microwave antennas.
TARGETED MARKET COVERAGE AREA:	The area which is targeted to be served by a proposed telecommunication facility.
TELECOMMUNICATIONS FACILITY:	Any commercial facility established for the purpose of providing wireless voice, data, and image transmission within a designated service area. A telecommunications facility consists of one or more antennas attached to a support structure or tower, together with related equipment or buildings.
TOWER:	A structure and any support thereto, such as a self-supporting mast, pole, lattice tower, guy tower, or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, on which one or more antennas are located.
	1. The term includes radio and television transmission towers, microwave towers, common carrier towers, and cellular telephone towers.
	2. The term excludes any towers under twelve (12) feet in total height.
UNAFFILIATED USER:	A person or entity under a shared use agreement specified in Subsection 6-13-5.2 of this Chapter, of not less than a five-year term, which person or entity does not directly or indirectly own or control, and is not directly owned or controlled by, or is not under common ownership or control with another user of the same tower.

VIEW CORRIDOR:	A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a river or public artwork, or a group of objects, such as a neighborhood or forested area, which would result in a wider corridor and may include three hundred sixty degree (360°) perspective. The view corridor extends from the viewpoint and is based on the area where height must be limited to protect the view.
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(Ord. 08-078, 4-15-2008)

6-13-3: - PERMITTED USES:

Upon receipt of a permit pursuant to Title 5, Chapter 2, Article A of this Code, towers or antennas may be permitted by right, subject to the provisions contained in Section 6-13-4, "General Requirements", of this Chapter, and the criteria described herein. The location, construction, or installation of any telecommunications facility exceeding the height limitations permitted by this Section may be allowed as a conditional use pursuant to Section 6-13-6 of this Chapter.

1. Antennas:

1.1. Concealed antenna installations shall be permitted administratively in all zoning districts by the Director subject to the issuance of a permit. Such installations shall result in no change to the exterior of the mounting structure after installation is complete.

1.2. Camouflaged antenna installations on principal and accessory buildings shall be permitted administratively in all zoning districts by the Director subject to the issuance of a permit, provided the installation is consistent with the scale, character and general design of the rest of the building and when completed, the building complies with all applicable zoning height and setback requirements.

1.3. Additional antennas added to existing towers located in nonresidential zoning districts to support collocation of additional users, which will add no more than ten percent (10%) to the overall height of the structure. In no instance shall the overall tower height exceed one hundred sixty-five (165) feet without approval of a conditional use permit pursuant to Section 6-13-6 of this Chapter.

1.4. Rooftop and wall mounted antennas may be located as a matter of right on any multiple-family dwellings and nonresidential buildings in the City subject to the following requirements:

1.4.1. The building is at least thirty (30) feet in height, and the antenna will add no more than a total of twenty (20) feet to the height of the building; and

1.4.2. The antenna is set back from any existing or planned off site residential property line a distance of at least two (2) times the full height of the building and the antenna, but in no event less than one hundred (100) feet.

1.4.3. The number and location of antennas on a single structure does not exceed one per two hundred (200) square feet of building rooftop and does not adversely affect adjacent properties and views.

2. Towers:

2.1. In industrial, ORI, research and development and business park zoning districts towers are permitted as a matter of right, provided such towers comply with all of the requirements of Sections 6-13-4, "General Requirements", and 6-13-5, "Shared Use", of this Chapter and do not exceed one hundred fifty (150) feet in height.

2.2. In all other nonresidential zoning districts, and R4 and R5 districts, towers are permitted as a matter of right, provided such towers comply with all of the conditions in Sections 6-13-4, "General Requirements", and 6-13-5, "Shared Use", of this Chapter, are not located in a historic district, and do not exceed the following height limitations:

2.2.1. For a single unaffiliated user, no more than seventy (70) feet in height;

2.2.2. For two (2) unaffiliated users, no more than one hundred (100) feet in height; and

2.2.3. For three (3) or more unaffiliated users no more than one hundred fifty (150) feet in height.

2.2.4. No guy tower shall be located in the central business district or an R4 or R5 district.

2.3. In residential districts other than R4 and R5 districts (excluding historic district properties), as a matter of right up to sixty (60) feet in height, provided:

2.3.1. Such towers comply with all of the requirements in Section 6-13-4, "General Requirements", of this Chapter; and

2.3.2. Such towers are exclusively operated by the residential occupant of the premises on which the tower is located; and

2.3.3. Such towers are occupied exclusively by antennas and/or satellite dishes owned by the residential occupant of the premises on which the tower is located; and

2.3.4. Such towers are an accessory use to the principal permitted use(s) of the zoning district.

3. Planned Unit Developments (PUDs): In PUDs, approved in accordance with this Code, the standards for the underlying zoning classification shall serve as a basic guideline for approval of all towers and antennas. Any tower in excess of twelve (12) feet within a PUD will require a minor change to the PUD. Proposed towers in a PUD which would require a conditional use based on underlying zoning will require a major change to the PUD. Camouflaged, concealed, rooftop and wall mounted antennas which are not visible from a public right-of-way may be approved administratively.

4. Historic District: The location, construction, or installation of any telecommunication facility in the historic preservation district shall also satisfy the standards contained in Chapter 11 of this Title.

(Ord. 08-078, 4-15-2008)

6-13-4: - GENERAL REQUIREMENTS:

The requirements set forth in this Section shall govern the location, construction, and installation of all towers and antennas governed by this Chapter.

1. Prohibitions:

1.1. New Towers: No new towers may be established if there is a technically suitable space available on commercially reasonable terms on an existing tower or structure within the search area that the provider is seeking to serve. In all applications for construction of a new tower, the applicant must prove by substantial evidence that a bona fide need exists for the tower and that no reasonable combination of locations, techniques, or technologies will meet the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of collocation exceeds the cost of a new facility by at least fifty percent (50%).

1.2. Lighting:

1.2.1. No illumination shall be permitted on a tower or antenna unless required by the FCC, FAA or other State or federal agency of competent jurisdiction.

1.2.2. Where such lighting is required, the Director may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

1.3. Advertising: No advertising is permitted on a tower or antenna.

2. Building Codes; Safety Standards:

2.1. To ensure the structural integrity of towers and antennas, the owner of such a facility shall ensure that it is maintained in compliance with applicable building and safety codes adopted by the City and the applicable standards for towers and antennas promulgated by the FCC and FAA from time to time.

2.2. The owners of towers and antennas shall conduct inspections of such facilities at least once every three (3) years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Illinois.

2.3. A report of such inspection shall be filed with the Director.

3. Regulatory Compliance: All towers and antennas shall comply with all applicable current standards and regulations of the FAA, the FCC, and any other agency of the State or federal government with the authority to regulate telecommunications facilities.

3.1. If such regulations are amended from time to time, the owners of any tower or antenna subject to the provisions of this Chapter shall bring such facilities into compliance with such amended rules and regulations within six (6) months of the effective date of such amendment, unless a more stringent compliance schedule is mandated by the controlling State or federal agency.

3.2. The owners of towers and antennas shall provide documentation establishing that each such facility is in compliance with all local, State, and federal requirements.

3.3. Evidence of such compliance shall be submitted to the Director.

4. Operation Of Equipment: All towers and antennas shall be installed, operated and maintained in accordance with all applicable laws, regulations, and ordinances so as not to interfere with or cause interference with the City's use of its other radio or television transmitting and/or receiving equipment whether located on the site or not.

4.1. In the event there is interference with radio or other telecommunications transmissions, the owners of such towers and antennas shall promptly take all reasonable steps necessary to correct and eliminate such interference within a reasonable period of time; provided however, if such transmissions materially interfere with the City's emergency transmitting and/or receiving equipment, such corrective steps shall be taken immediately upon notice by the City. If the owner of such towers or antennas fails to take immediate corrective action, the City may do so at the owner's expense.

4.2. If the owner is unable to eliminate the interference in accordance with Subsection 6-13-4.4.1 of this Section, the owner shall terminate its facilities from operation.

5. Security:

5.1. Except towers of less than twelve (12) feet in height and towers and antennas located on rooftops or alternative tower structures, all other towers and antennas shall be enclosed by decay resistant security fencing not less than six (6) feet in height.

5.2. The Director may waive such requirements for alternative tower structures.

6. Visual Effect:

6.1. Subject to any applicable standards of the FAA or other State or federal agency of competent jurisdiction, towers or antennas shall be constructed of materials that will blend with the environment to reduce visual obtrusiveness.

6.2. At a site of such a facility, construction of equipment buildings and related structures shall, to the extent possible, incorporate materials, colors, textures, screening, and landscaping that will camouflage the tower facilities to blend with the natural setting and surrounding environment.

6.3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color identical to, or blending with, the color of the supporting structure so that the antenna and related equipment are as visually unobtrusive as possible.

6.4. If an antenna is installed on a roof, it should be mounted so that it is not visible from the public right-of-way, based on a standard line of site analysis to be provided by the petitioner. Typically, antennas should be placed toward the rear of the building or behind major rooftop elements such as stair and elevator penthouses, parapets, or architectural projections.

6.5. In addition to any other materials required for a standard permit under this Section or any other ordinance of the City of Naperville, all applicants for permits to construct a tower or antenna shall submit visual impact demonstrations using photo simulations of the proposed facility as it would be seen from residential areas, public rights-of-way, public parks and other sites (e.g., view corridors) as deemed appropriate by the Director.

7. Landscaping:

7.1. Landscaping shall be used to effectively screen the view of the tower from adjacent public ways, public property, and residential property and shall include the following:

7.1.1. For towers less than one hundred fifty (150) feet in height, a buffer area no less than six (6) feet wide shall be provided at any property line which faces a public street or way, or any residentially zoned property.

7.1.2. For towers in excess of one hundred fifty (150) feet in height, a buffer area not less than ten (10) feet wide shall be provided at any property line which faces a public street or way, or any residentially zoned property.

7.1.3. The buffer zone shall consist of plant materials which can be expected to grow to form a continuous hedge at least five (5) feet in height within two (2) years after planting.

7.2. Landscape screening forming a continuous hedge around the base of the tower and related equipment, and which can be expected to grow to form a continuous hedge at least six (6) feet in height within two (2) years after planting, shall be used to effectively screen the view of the tower from all other property.

7.3. Trees and shrubs in the vicinity of guywires shall not exceed twenty (20) feet in height; shall not affect the stability of the guys should they be uprooted; and shall not obscure visibility of the anchor from the transmission building or security facilities.

7.4. Native vegetation, or such other vegetation approved by the City's Landscape Variance Committee, on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed and vegetation to be replaced.

7.5. For good cause shown, the City's Landscape Variance Committee may permit use of an alternate detailed plan and specifications for landscaping and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses.

7.5.1. Such a plan shall accomplish the same degree of screening achieved by the requirements of this Subsection, except as lesser requirements may be desirable for adequate visibility and for security purposes.

7.5.2. In locations where the visual effect of the tower would be minimal, including, without limitation, rural locations or heavily developed industrial areas, the City's Landscape Variance Committee may waive or reduce the landscaping requirements.

8. Maintenance Of Towers And Antennas:

8.1. Equipment located on or at a tower or antenna shall be automated to the greatest extent possible to reduce traffic and congestion.

8.2. Where such a facility abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector street.

9. Principal, Accessory And Joint Uses Of Towers And Antennas:

9.1. Where a tower or antenna is the principal use, accessory structures used in direct support of such a facility shall be allowed but shall not be used for offices, vehicle storage or other outdoor storage. Equipment buildings housing telecommunications facilities used in the operation of any tower, antenna or satellite dish on the property or adjacent property shall be accessory to the towers and antennas.

9.2. Mobile or immobile equipment not used in direct support of a tower shall not be stored or parked on the site of the tower, unless repairs, inspections or maintenance to the tower are being made.

9.3. In nonresidential zoning districts and in R4 and R5 zoning districts, subject to the requirements of this Chapter, towers or antennas may be located on sites containing another principal use in the same buildable area.

9.3.1. Such facilities may occupy a parcel meeting the minimum lot size requirements for the zoning district in which it is located.

9.3.2. For a monopole or lattice tower, the minimum distance between a tower and another tower or principal use shall be the greater of twenty percent (20%) of the tower height or twenty-five (25) feet. The minimum distance between such a tower and a property line fronting a public street or way shall be the greater of seventy-five (75) feet, or five (5) feet greater than the height of the tower.

9.3.3. For a guyed tower, the minimum distance between a tower and another tower or principal use shall be the greater of one hundred percent (100%) of the breakpoint or twenty-five (25) feet. The minimum distance between such a tower and a property line fronting a public street or way shall be the greater of seventy-five (75) feet, or five (5) feet greater than the height of the tower.

9.3.4. Such separation is required to assure compatibility of land uses and to provide for the health, safety and welfare of individuals and structures occupying the same site.

9.4. No tower may be located on a site where a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas and dangerous chemicals, unless the tower is set back from any such materials or liquids by not less than the total height of the tower.

10. Lot Size, Setbacks, And Separation For Towers:

10.1. All towers shall be situated on a site of sufficient size and shape to provide an adequate setback from the base of the tower to any property line abutting a residential district. The size of the site shall be sufficient where the required setbacks are satisfied. For purposes of determining whether the installation of a tower complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though towers may be located on leased areas within such lot.

10.2. All freestanding towers shall be set sufficiently back from property lines to:

10.2.1. Provide for an adequate vegetative, topographic or other buffer required by Subsection 6-13-4.7, "Landscaping", of this Section;

10.2.2. Preserve the privacy of surrounding residential property; and

10.2.3. Protect adjoining property from the potential adverse effect of tower failure by being large enough to accommodate such failure on the site, based on the engineer's analysis.

10.3. A freestanding tower is presumed to be sufficiently set back where the following requirements are met:

TOWER SETBACK REQUIREMENTS

Structure Type	Within Or Abutting A Residential District (Or Across A Public Right-of-way From A Residential District)	Not Within Or Abutting A Residential District
Nonguyed structures	At least 2 feet for every 1 foot of tower height as measured from the property line abutting the residential property or public right-of-way	Equal to or exceeding the rear yard setback required for the principal permitted use for the adjoining property
Guyed structures	The height of the tower from a guy anchor to any property line abutting a residential district or public right-of-way	Equal to the greater of the required setback for a principal use in the applicable zoning district, 100 percent of the breakpoint of the tower, or 25 feet

10.4. All equipment buildings or cabinets associated with a tower or antenna shall meet the setbacks required in the zoning district where the tower and such required buildings are located.

10.5. All freestanding towers within R4, R5, conditional use towers in residential districts, and conditional use towers in nonresidential districts for which applications are submitted after September 17, 1997, shall conform to the following minimum tower separation requirements between proposed towers and existing towers:

R4, R5 AND NONRESIDENTIAL DISTRICT TOWER SEPARATION REQUIREMENTS

Proposed Tower Height	Existing Tower Height			
	<50 Feet	50—100 Feet	100—150 Feet	Over 150 Feet
<50 Feet	300 feet	500 feet	750 feet	1,000 feet
50—100 Feet	500 feet	750 feet	1,000 feet	1,500 feet
100—150 Feet	750 feet	1,000 feet	1,500 feet	2,000 feet
Over 150 Feet	1,000 feet	1,500 feet	2,000 feet	2,500 feet

10.6. Towers and antennas mounted on rooftops shall be exempt from these minimum separation distances. For purposes of implementing this Chapter, an AM array, consisting of

one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array.

11. Location:

11.1. Front Yards: In no case shall a freestanding tower be located in any required front yard.

11.2. Residential Zoning Districts Other Than R4 And R5:

11.2.1. Rear Yards: In any residential zoning district other than R4 and R5, subject to the provisions of this Chapter, towers and antennas shall be located in the rear yard of any lot. Notwithstanding the above, all towers and antennas in any historic preservation district which are located other than in the rear yard of any lot shall also satisfy the standards contained in Chapter 11 of this Title.

11.2.2. Interior Side Yards: If signals cannot be clearly received from the rear yard, the towers and antennas may be located in the interior side yard.

11.2.3. Roof Or Wall Mounted: Towers and antennas may be mounted on the roof or wall of a principal structure, subject to the following requirements:

11.2.3.1. Roof mounted or wall anchored towers and antennas installed on a principal building or structure shall be located on that portion of a roof or wall which faces a rear yard.

11.2.3.2. In the event signals cannot be clearly received by locating the towers and antennas on that portion of a roof or wall which faces a rear yard, the towers and antennas may be installed on the side roof.

11.3. R4, R5 And Nonresidential Zoning Districts:

11.3.1. Rear Yards, Interior Side Yards, And Roof Mounted: In any R4, R5 and nonresidential zoning district, to the extent that it is practicable, towers and antennas shall be located in rear yards, interior side yards, or on the roof, subject to the provisions of this Section.

11.3.2. Roof Mounted: In R4, R5 and nonresidential districts, roof mounted towers and antennas may be installed on any portion of the roof of a principal structure where the antenna is effectively screened and is installed so that it is not visible between ground level and ten (10) feet above ground level from any adjoining street or abutting residential property including other residential property in R4 or R5 districts.

11.3.3. Wall Mounted: In R4, R5 and nonresidential districts, wall mounted towers and antennas installed on a principal building or structure shall be located on that portion of a wall which faces a rear yard.

11.3.4. Accessory Structures: Roof mounted or wall anchored towers and antennas installed on an accessory building or structure may be located on any side of the roof or wall.

(Ord. 08-078, 4-15-2008)

6-13-5: - SHARED USE:

1. Facility Design: All new towers shall be designed to structurally accommodate shared use.

1.1. To encourage the maximum use of existing towers, no building permit or variance shall be required for the addition of one or more antennas to an existing tower, provided:

1.1.1. The height of the tower or structure on which the antenna is placed is not increased if located in a residential district. Towers in nonresidential districts may be increased by no more than ten percent (10%) to accommodate additional antennas provided the overall height of the tower does not exceed the standards contained in Section 6-13-3 of this Chapter;

1.1.2. The applicant complies with the requirements of Sections 6-13-3, "Permitted Uses", and 6-13-4, "General Requirements", of this Chapter; and

1.1.3. The owner provides prior written notice to the City of the additional antennas.

2. New Towers: As conditions of approval of a new freestanding conditional use tower in any zoning district, the owner shall:

2.1. Record a letter of intent in the office of the recorder of deeds for the county in which the tower site is located;

2.2. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;

2.3. Negotiate in good faith for shared use by third parties;

2.4. Allow shared use where the third party seeking such use enters into a written agreement to pay a reasonable, pro rata share of the costs of the tower and all equipment buildings, including all charges necessary to modify, but not totally reconstruct, the tower and transmitters to accommodate shared use, and to avoid interference with the signals transmitted or received by the tower's current users.

2.5. These conditions of approval shall be a covenant running with the land and be binding on the current owner and all successors in interest of the tower site.

3. Noncompliance: Where an owner whose tower was approved after the effective date of this Chapter wilfully and knowingly fails to comply with the requirements of Subsection 6-13-5.2 of this Section, the City may withhold approval of any application by such owner for a building permit, conditional use permit or variance for any tower or antenna.

4. Fee: Shared use shall not be precluded because a reasonable fee for shared use is charged, or because reasonable costs may be incurred to adapt the existing and proposed uses to a shared tower.

4.1. The Director, the Plan Commission or the City Council may consider expert testimony to determine whether the anticipated fees and costs are reasonable.

4.2. Costs exceeding new tower development are presumed unreasonable.

(Ord. 08-078, 4-15-2008)

6-13-6: - CONDITIONAL USE PERMITS AND VARIANCES:

1. Conditional Uses And Variances:

1.1. Conditional Use Permitted: The location, construction, or installation of any tower or antenna exceeding the height limitations permitted by this Chapter, or any satellite dish exceeding the size limitations of this Chapter, may be allowed as a conditional use pursuant to this Section. The location, construction, or installation of any tower or antenna, or satellite dish which does not otherwise meet the requirements of this Code may be permitted upon the grant of a variance pursuant to this Section.

1.2. Application: A petition for a conditional use permit, variance or any amendment thereto for a tower, antenna or satellite dish not permitted pursuant to Section 6-13-3, "Permitted Uses", of this Chapter shall be initiated by application to the Director in accordance with the provisions of this Section, and may be issued in accordance with this Section.

1.3. Issuance: After receiving the report of the Director, the City Council may issue or deny a conditional use permit or variance pursuant to this Chapter, or may refer the application to an advisory body for review and recommendation provided, however, no conditional use or variance shall be granted unless the standards for granting a conditional use or variance, as the case may be, have been satisfied.

1.4. Standards For Granting A Conditional Use For Antennas, Towers Or Dishes:

1.4.1. The Council shall determine that the application has met all of the general requirements of this Chapter, except as to which a variance has been specifically granted; and

1.4.2. For facilities, antennas and towers, the extent of the deviation of the proposed facility from the requirements of this Chapter, the effect of the proposed facility in terms of the goals of this Chapter, and the benefits of and need for the proposed antenna or tower must be greater than any possible depreciating effects and damage to the neighboring properties.

1.4.3. For satellite dishes, strict compliance with the regulations contained in this Chapter must result in an obstructed reception window and must be beyond the control of the property owner and applicant.

1.4.4. The use of alternative tower structures rather than the construction and erection of new or additional towers is one of the goals of this Chapter. The depreciating effects and damage to the neighboring properties of antennas and towers shall be presumed to be less when alternative tower structures are used.

1.5. Standards For Granting A Variance For Antennas, Towers Or Dishes:

1.5.1. The Council shall determine that the application has met all of the requirements of this Chapter and Section 5-2A-4 of this Code, except for those for which a conditional use or variance has been specifically granted; and

1.5.2. The variance must be in harmony with the general purpose and intent of this Title; and the standards for granting a variance outlined in Subsection 6-3-5.2 of this Title.

1.5.3. The use of alternative tower structures rather than the construction and erection of new or additional towers is one of the goals of this Chapter. The depreciating effects and damage to the neighboring properties of antennas and towers shall be presumed to be less when alternative tower structures are used.

1.5.4. Variances from separation requirements for towers and antennas may be permitted to allow more than one tower on a lot only if:

1.5.4.1. The standards contained in Subsection 6-3-5.2 of this Title are satisfied; and

1.5.4.2. Setback requirements, design and landscaping requirements are met for each tower; and

1.5.4.3. Such variance is technically feasible and failure of one will not lead to multiple failures; and

1.5.4.4. Clustered towers shall be of similar height, not to exceed ten percent (10%) deviation from the average height of all clustered towers. The term "clustered" shall mean two (2) or more grouped together within the separation distances required under this Chapter, on the same parcel or lot, or on adjacent parcels or lots and within the adjoining setback areas of both parcels or lots.

1.5.5. For variances from applicable satellite dish height, location and setback standards, in lieu of the standards in Subsection 6-3-5.2 of this Title, that strict compliance with the regulations contained in this Chapter will result in an obstructed reception window and is beyond the control of the owner or applicant.

1.6. Conditions And Restrictions: the City Council may impose conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this Section and as may be necessary to create a buffer from, or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties.

1.6.1. If a time limit is set forth by which conditions and restrictions must be completed, they shall be so completed in the time specified. If no such time limit is specified, then the conditions and restrictions shall be completed within a reasonable amount of time. The applicant shall be obliged to fulfill and maintain all conditions and restrictions for as long as the variance is utilized or in effect.

1.7. Contents Of Application For A Conditional Use: All applications for a conditional use under this Chapter shall include such documentation and information specified in Section 5-2A-4 of this Code, as may be required by the Director.

1.8. Contents Of Application For A Variance: All applications for variances shall include such documentation and information specified in Section 5-2A-4 of this Code, as may be required by the Director.

1.9. Records: The Director shall maintain records of all such responses to requests for information, and shall provide such information to any person upon receipt of a proper request.

2. Planned Unit Developments:

2.1. Existing Planned Unit Developments:

2.1.1. The erection or installation of any antennas, towers or satellite dishes subject to regulation under this Chapter that are permitted uses in the underlying PUD zoning classification shall require approval of a minor change to the PUD unless and to the extent specifically permitted in the approved PUD.

2.1.2. The erection or installation of any antennas, towers or satellite dishes subject to regulation under this Chapter that are conditional uses in the underlying PUD zoning classification shall require approval of a major change to the PUD unless and to the extent specifically permitted in the approved PUD.

2.2. New Planned Unit Developments:

2.2.1. The erection or installation of any antennas, towers or satellite dishes subject to regulation under this Chapter shall meet the standards of this Chapter and those of the underlying PUD zoning classification, unless specifically permitted otherwise in the approved PUD.

(Ord. 08-078, 4-15-2008)

6-13-7: - RADIO, SATELLITE, TELEVISION ANTENNA TOWERS AND DISHES:

1. Permits Required: In any residential district other than the R4 and R5 districts, antennas and satellite dishes one meter (3.28 feet) in diameter or less do not require a permit. In the R4 and R5 districts satellite dishes two (2) meters (seven (7) feet) in size or less do not require a permit. Larger antennas and dishes are subject to the requirements of this Section. No person shall construct or install any satellite dish or antenna exceeding one meter (3.28 feet) in size in residential districts, or two (2) meters (seven (7) feet) in size in R4, R5, or nonresidential districts without obtaining a permit pursuant to Title 5, Chapter 2, Article A of this Code.

2. General Siting And Location Requirements: The following requirements shall apply to all antenna towers and dish antennas located, installed, or constructed:

2.1. Aesthetic Requirements: All antenna towers and dish antennas, and the bases on which they are mounted, shall be black, gray, white, silver, tan, beige or other light brown shades of color, or another color which matches or blends with the predominant color of the roof surface if roof mounted, or the color of the surroundings if ground mounted.

2.2. Wind Loads: All antenna towers and dish antennas and any bases on which they are mounted shall be constructed to withstand a minimum wind velocity of eighty (80) miles per hour (impact pressure of thirty-two (32) pounds per square foot).

2.3. No Obstruction Of Public Ways Or Property: No satellite dish or antenna tower shall extend above, across, over or under any public street, public sidewalk, or other public rights-of-way or property, and shall have no wires, or metal rods extending therefrom above, across, over or under any public street, public sidewalk, or other public rights-of-way or property.

2.4. Buried Wires, Rods And Connectors: All wires, rods and other connectors between a satellite dish or antenna tower and the structure receiving services from the dish or tower shall be located underground if ground mounted or securely attached to or located within the structure receiving service if the satellite dish or antenna is roof or wall mounted.

2.5. Screening For Satellite Dishes And Antennas: As an exception to Section 6-2-12 of this Title, all ground mounted satellite dish installations exceeding one meter in size in residential districts including R4 and R5 districts, or two (2) meters in size in any nonresidential districts, shall include screening treatments, not less than the height of the dish installation, along the

dish's nonreception window axes and low level screening treatments along the reception window axes of the dish's base.

2.5.1. Screening treatments should completely enclose the satellite and consist of nondeciduous landscape materials or fencing having an opacity of at least seventy-five percent (75%).

2.6. Lighting And Advertising: All satellite dish and antenna tower installations shall comply with all applicable FCC and FAA requirements. No lights or signs, or other advertising shall be permitted on any satellite dish, antenna tower or support structure unless required by the FCC or the FAA.

2.7. Location: All antennal installations must comply with all accessory use, yard, height, bulk and setback requirements specified within the zoning district where the antenna will be located. Roof mounted or wall anchored antennas or satellite dishes shall not exceed the maximum height restriction for principal structures for the zoning district in which they are located. For roof mounted antennas, the height is the sum total of the building height and tower measured from the lowest point of the finished grade at the front of the building to the highest point of the tower (including any attached antennas).

2.7.1. Subject to the provisions of this Chapter, and to the extent practicable, ground mounted satellite dishes shall be located only in the rear yard of any lot. Wall or roof mounted antennas or satellite dishes shall be mounted to that portion of the roof or wall on the principal structure that faces the rear yard.

2.7.2. If signals cannot be clearly received from the rear yard, rear building facade or roof facing the rear yard, the antenna or dish may be located in the interior side yard, on an interior side wall or portion of the roof of the principal structure facing an interior side yard.

2.7.3. An antenna mounted on the interior side roof or wall of a principal structure must be installed so it is not visible between ground level and ten (10) feet above ground level from any street adjoining the front yard of the property on which it is located.

2.7.4. All satellite dishes in a historic preservation district shall also satisfy the standards contained in Chapter 11 of this Title.

3. Satellite Dish Sizes: The size of all satellite dish installations shall conform to the following requirements:

3.1. Residential: No satellite dish shall be more than ten (10) feet in diameter whether roof mounted, wall anchored or ground mounted. All satellite dishes in excess of one meter will require approval of a conditional use. In such circumstances, the proposed satellite dish shall not be located less than fifteen (15) feet from any lot line or less than thirty-five (35) feet from any existing principal structure on a lot other than the lot on which the satellite dish is to be constructed or installed. For satellite dishes less than one meter in size no permit is required provided installation is in accordance with Subsection 6-13-7.2 of this Section.

3.2. Nonresidential And R4 And R5: In the nonresidential and R4 and R5 zoning districts, satellite dishes in excess of two (2) meters (seven (7) feet) in diameter shall be permitted upon approval of a conditional use.

4. Satellite Dish Heights: The height of all satellite dish installations shall conform to the following requirements:

4.1. Ground Mounted:

4.1.1. Residential Other Than R4 And R5: In residential districts other than R4 and R5, no ground mounted satellite dish shall be more than twelve (12) feet in height, as measured from the lowest point of the finished grade at the bottom of the base or tower on which it is constructed or installed to the highest point on the satellite dish.

4.1.2. Nonresidential And R4 And R5: In nonresidential and R4 and R5 districts, ground mounted satellite dish installations in excess of seventy (70) feet in height may be permitted upon approval of a conditional use in accordance with the requirements of Section 6-13-6 of this Chapter.

4.2. Roof Or Wall Mounted:

4.2.1. Residential Other Than R4 And R5: In residential other than R4 and R5 districts, roof mounted or wall anchored satellite dishes shall not exceed the maximum height restriction for principal structures for the zoning district in which they are located.

4.2.2. Nonresidential And R4 And R5: In all nonresidential and R4 and R5 districts, roof or wall mounted satellite dishes in excess of sixty (60) feet in height may be permitted upon approval of a variance in accordance with the requirements of Section 6-13-6 of this Chapter.

4.2.3. Visibility: Any roof mounted satellite dish shall be installed so it is not visible between ground level and ten (10) feet above ground level from any street adjoining the property or any abutting residential properties including other multiple-family property in an R4 or R5 district.

(Ord. 08-078, 4-15-2008)

6-13-8: - DECISIONS:

Any decision rendered upon an application to locate, construct, or install a tower, antenna, or for a conditional use or variance permit for any such facility shall be written and shall include findings of fact supported by substantial evidence in a written record.

(Ord. 08-078, 4-15-2008)

6-13-9: - APPEALS:

1. Appeals from any decision of the Director rendered upon an application to locate, construct, or install a telecommunications facility shall be filed pursuant to Section 6-3-6 of this Title.

2. Appeals from any decision of the City Council rendered upon an application to locate, construct, or install a telecommunications facility, or for a conditional use permit for any such facility shall be filed with the circuit court for the 18th Judicial Circuit, DuPage County, Illinois, within thirty (30) days after the date the decision is rendered.

(Ord. 08-078, 4-15-2008)

6-13-10: - MAINTENANCE AND REMOVAL OF TELECOMMUNICATIONS FACILITIES:

1. All telecommunications facilities, including satellite dishes, shall be maintained in compliance with all standards in applicable building and technical codes to ensure the structural and technical integrity of such facilities.
2. The Director shall be authorized to enter upon the property of the owner or tenant of the antenna facility for purposes of inspecting same, upon prior written or verbal notice to the owner or tenant.
3. If upon inspection by the Director, it is determined that a telecommunications facility fails to comply with any of the applicable standards of this Code, the Director shall send a written notice of such violation to the owner of the tower or antenna and the owner of the property if such owner is different from the owner of such facility. Said notice shall be mailed by certified mail, return receipt requested.
4. The owner of the tower or antenna and the owner of the property if such owner is different from the owner of such facility, shall have thirty (30) days after receipt of the violation notice to bring said facility into compliance.
5. In the event such tower or antenna is not brought into compliance within the required 30-day period, the City may provide notice to the owners requiring such a facility to be removed.
6. In the event such tower or antenna is not removed within thirty (30) days after receipt of the notice of removal, the City may remove or cause the removal of said facility and file a lien against the property for the costs of removal.
7. In the event that the failure of the tower or antenna to comply with any such standards constitutes a present danger to persons or property, the City may abate the danger, provide notice to the owner as soon as reasonably practicable and recover the costs of abatement from the owner and file a lien against the property for the costs of abatement.
8. The City may pursue any and all available legal remedies to ensure that a telecommunications facility which fails to comply with this Code or which constitutes a danger to persons or property is brought into compliance or removed.
9. Any delay by the City in taking enforcement action against the owner of a telecommunications facility and the owner of the property if such owner is different from the owner of such facility, shall not waive the City's right to take any action at a later time.
10. The City may, seek to have the telecommunications facility removed regardless of the owner's or operator's intent to said facility, and regardless of any permits, federal, State or otherwise, which may have been issued or granted.

(Ord. 08-078, 4-15-2008)

6-13-11: - ABANDONED TELECOMMUNICATIONS FACILITIES:

1. Any telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, whether or not the owner or operator intends to make use of such facility.
2. If upon inspection by the Director, it is determined that a telecommunications facility is abandoned, the Director shall send a written notice of such abandonment to the owner of the

telecommunications facility and the owner of the property if such owner is different from the owner of said facility. Said notice shall be mailed by certified mail, return receipt requested.

3. The owner of the telecommunications facility and the owner of the property if such owner is different from the owner of such facility, shall have sixty (60) days after receipt of the notice to remove all of said facility, including any and all footings and foundation.

4. If such telecommunications facility is not removed within sixty (60) days after receipt of notice from the City notifying the owners of such abandonment, the City may remove such facility and file a lien against the property for the costs of removal.

5. The City may pursue any and all available legal remedies to ensure that an abandoned telecommunications facility is removed.

6. Any delay by the City in taking action to enforce the removal of an abandoned telecommunications facility against the owner of the telecommunications facility and the owner of the property (if such owner is different from the owner of such facility), shall not waive the City's right to take any action at a later time.

7. The City may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate such facility, and regardless of any permits, federal, State or otherwise, which may have been issued or granted.

8. If the owner of an abandoned telecommunications facility wishes to use such an abandoned facility, the owner shall first apply for and receive all applicable permits and meet all of the conditions of this Chapter as if such telecommunications facility were a new facility.

(Ord. 08-078, 4-15-2008)

6-13-12: - EXISTING TELECOMMUNICATIONS FACILITIES:

1. A telecommunications facility operative on September 17, 1997, shall be permitted to continue in its present use as an existing building or structure pursuant to the requirements of Section 6-2-19, "Existing Buildings And Structures", of this Title.

2. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted for such existing facilities.

3. Any new construction, other than routine maintenance, on an existing telecommunications facility or on the property on which such an existing facility is located, shall comply with the requirements of this Chapter.

4. Where the City has granted approval for the construction of a new telecommunications facility, which has not yet been constructed or placed in operation on September 17, 1997, such structure shall be considered an existing telecommunications facility as long as such approval is valid and not expired.

(Ord. 08-078, 4-15-2008)

6-13-13: - PUBLIC PROPERTY:

Telecommunications facilities located on property owned, leased or otherwise controlled by the City shall be exempt from the requirements of this Chapter; provided a license or lease authorizing the operation of such a facility has been approved by the City Council.

(Ord. 08-078, 4-15-2008)

6-13-14: - SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this Chapter is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions hereof.

(Ord. 08-078, 4-15-2008)

6-13-15: - CONFLICTS RESOLVED:

This Chapter superseded all chapters or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

(Ord. 08-078, 4-15-2008)