

ORDINANCE NO. 124

STILLWATER TOWNSHIP
WASHINGTON COUNTY, MINNESOTA

**AN ORDINANCE REGULATING WIRELESS COMMUNICATION FACILITIES,
AMENDING CHAPTER ONE, SECTION TWO AND CHAPTER TWO, SECTION
TWO, PART 3, SECTION 2.22 OF THE TOWNSHIP ZONING ORDINANCE**

THE BOARD OF SUPERVISORS OF STILLWATER TOWNSHIP ORDAINS:

Section 1. Chapter One, Section 2.1 is amended by adding the following definitions:

Camouflage Design. A wireless communication facility that is disguised, hidden, or screened, but remains recognizable as a wireless communication facility. Camouflage design facilities must be compatible with the historical, environmental, and cultural character of the surrounding area year round.

Co-location. The placement of wireless communication antennas by two (2) or more service providers on a tower, building, or structure.

Guyed Tower. A tower that is tied to the ground or other surface by diagonal cables.

Lattice Tower. A tower that is self-supporting with multiple legs and cross bracing of structural steel.

Monopole. A tower that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Self-contained Pole. A tower that is self-supporting with a single shaft of wood, steel or concrete that has the same diameter throughout or tapers to the top and has no platform or racks.

Stealth Design. A wireless communication facility that models or mimics something in the surrounding landscape, such as silos in farm settings or trees in forested lands, and is unrecognizable year round as an antenna or antenna mount. It must be compatible with the historical, environmental, and cultural character of the surrounding area.

Tower. Any pole, spire, structure, or combination thereof in excess of 35 feet in height including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of holding antennas for wireless communication.

Wireless Communication Facility. Hardware that provides wireless communication services, including antennas, towers, and all associated equipment.

Vision Statement. Stillwater Township's Vision Statement is as follows: "Stillwater Township is a rural residential community located in the St. Croix River valley. It has a beautiful natural landscape of hills, woods, streams and lakes, and a portion of the Township overlooks the St. Croix River. Farms and homes on large acreage are the primary land uses in the Township.

"Stillwater Township will continue to actively support the rural residential lifestyle as an alternate to city development. The Township promotes and encourages lifestyle and land use practices that protect the natural environment and rural character of the area, and works diligently to ensure that open space, views and vistas, wildlife and water resources are preserved. This will be accomplished through careful land development and stewardship, as well as continuing to provide a responsive government and cost efficient rural services."

Section 2. Chapter Two, Part 3, Section 2.22 is amended in its entirety to read as follows:

2.22 Wireless Communication Antennas and Towers

- (1) **Purpose and Intent.** The purpose and intent of this section is to:
- (A) Enable the review and approval of wireless communication facilities while protecting the natural beauty and historical development patterns in the Township.
 - (B) Ensure consistency with the Township's Comprehensive Plan, Vision Statement, existing ordinances, and development policies.
 - (C) Locate new towers adjacent to existing structures and trees. Locate ground support facilities within a structure (stealth silos), underground, or adjacent to existing structures and trees.
 - (D) Protect the scenic views of the Township, including from scenic roadways, the St. Croix River, parks, lakes, and streams.

- (E) Minimize adverse visual effects of towers through the development of careful design and siting standards. Site structures to blend into the surrounding natural and historic landscape; site stealth design wireless communication facilities to be visually inconspicuous and camouflage design wireless communication facilities to be visually subordinate.
 - (F) Conserve and protect the Township's natural and undeveloped areas, wildlife, flora and habitats for endangered species.
 - (G) Accommodate the desire of residents, travelers and businesses to have high quality telecommunications technology without endangering public health, safety and welfare.
 - (H) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
 - (I) Maximize the use of existing and approved towers and buildings to reduce the number of towers needed to serve the community.
- (2) Permitted Facilities.**
- (A) New towers are allowed as conditional uses in the A-4, TZ, and Shoreland Overlay districts in compliance with this section and all other provisions of the zoning ordinance. Antennas located on existing structures and towers are allowed by certificate of compliance.
 - (B) Except in the SCR and Shoreland Overlay districts, a proposed tower shall be allowed by certificate of compliance within the easement of an existing high power transmission line so long as the antenna is not more than 25% higher than the current structures.
- (3) Performance Standards – New Towers.**
- (A) All towers must be either stealth or camouflage design.
 - (B) Camouflage design will only be allowed when the applicant demonstrates that stealth design is not possible. As part of a camouflage design, the applicant shall make every effort to utilize the self-contained pole design.
 - (C) Camouflage design is not allowed in the Shoreland Overlay districts.
 - (D) All towers must be located within 25 feet of a structure or mature tree. The distance from the tree is measured from the drip edge of the tree

crown. The tree or trees must provide sufficient cover so that the tower is able to meet the stealth design criteria, or camouflage design if applicable.

- (E) Towers shall not exceed the height of 20 feet above the tallest structure, or the edge of the crown of a tree within 25 feet of the proposed tower, subject to an overall maximum height of 140 feet. Tower height includes the antennas. Construction shall be in a manner that does not damage tall structures or trees.
- (F) An application for a new tower will not be approved unless the applicant demonstrates an existing significant gap in coverage to users who either cannot connect to the existing national network or cannot maintain a signal and demonstrates that the coverage gap is being filled with the least intrusive means.
- (G) Wireless communication facilities visible from Highways 96 and 95, County Road 15, the surface of the St. Croix River and its public areas, existing or proposed parks, or DNR protected lakes or rivers shall have stealth design.
- (H) No tower shall be located within 500 feet of any residential dwelling other than the dwelling on the parcel on which the tower is to be located. Towers must be setback a minimum of 150 from any property line.
- (I) The minimum lot size for construction of a tower shall be two (2) acres. On a parcel of land on which a principal use exists, a tower shall be considered as an accessory use allowed by conditional use permit.
- (J) Towers shall be designed and engineered to collapse progressively within the distance between the tower and property line. The application for any tower shall submit written documentation explaining tower construction and possible failure and provide assurance that blowing or falling ice can be contained on the subject property.
- (K) A tower shall be located on a parcel of land so as to have the least impact on adjoining properties and any negative impacts of the tower shall be confined as much as possible to the property on which the tower is located.
- (L) An applicant must comply with all Federal Communication Commission and Federal Aviation Administration rules.

- (M) No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the County Sheriff. Use of temporary mobile cell sites for testing purposes shall be limited to twenty-four (24) hours; use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of thirty (30) days. These limits can be extended by the Zoning Administrator.
- (N) Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.
- (O) No wireless communication facilities shall have lights, reflectors, flashers, daytime strobes, steady nighttime red lights or other illuminating devices affixed or attached to it unless required by the FAA or FCC.
- (P) No advertising signs shall be placed on wireless communication facilities.
- (Q) Wireless communication facilities not fully camouflaged from public viewing areas by existing buildings or structures shall be surrounded by buffers of dense tree growth and under-story vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may exist on the subject property or installed as part of the proposed wireless communication facilities or a combination of both. The Township shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.
- (R) The Township may require towers and antennas to be painted light gray, light blue, or off white to blend with sky and clouds.
- (S) Structural design, mounting, and installation of wireless communication facilities shall be in compliance with manufacturer's specifications. The plans shall be approved and certified by a registered professional engineer.
- (T) The use of a guyed and lattice towers are not permitted.
- (U) Tower base equipment must be located within a building.
- (V) Metal towers shall be constructed of, or treated with, corrosive resistant material.

- (W) If space is available on a tower, the tower owners shall in good faith lease space to other users so long as there is no disruption in the existing service provided by the towers' existing users and no negative structural impact upon the tower. If a dispute arises, as a condition to any permit or certificate of compliance, Stillwater Township reserves the right to act as arbiter in determining if a tower owner is acting in good faith in leasing to other tenants.
- (X) Generally, only one communication tower is permitted on a parcel of land. If more than one communication tower can be located on a parcel and meet the requirements of the Zoning Ordinance, the additional tower or towers may be allowed following the issuance of a conditional use permit. All other standards contained in this Zoning Ordinance must be met.
- (Y) All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower from ground level to 12 feet above ground shall be designed in a manner to preclude unauthorized climbing and/or shall be enclosed by a six (6) feet high chain link fence with a locked gate.
- (Z) Co-location.
1. Carriers shall make available their wireless communication facilities where feasible and appropriate, thereby reducing the number of stand-alone facilities. All applicants for a Conditional Use Permit for proposed wireless communication facilities shall demonstrate good faith efforts to co-locate. Such good faith effort includes:
 - (a) Submission of a survey of all existing structures that may be feasible sites for co-locating;
 - (b) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
 2. In the event that co-location is found to be not feasible, a written statement of the reasons shall be submitted to the Township, which may retain a technical expert to verify that co-location is or is not feasible.
- (AA) Upon filing an application for a CUP, the Township may require the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location

of such test shall be provided to the Township at least 14 days in advance and the Township can notify the property owners and agencies on the public hearing notice list.

(4) Performance Standards – New Antennas on Existing Towers or Structures.

- (A) A new antenna on a tower must not cause the tower to violate any provision of this section, other zoning ordinance provisions or the tower's conditions of approval.
- (B) Antennas mounted on existing structures shall not extend more than twenty (20) feet above the height of the structure.
- (C) When a wireless communication facility extends above the roof height of a structure on which it is mounted, the facility shall be screened within or behind existing architectural features to limit its visibility from public places. Wireless communication facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the structure's silhouette.
- (D) Wireless communication facilities that are side-mounted shall blend with the existing structure's architecture and, shall be painted or shielded with material that is consistent with the design features and materials of the structure.

(5) Historic Buildings and Districts.

- (A) Any wireless communication facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- (B) Any alteration made to an historic structure to accommodate a wireless communication facility should be fully reversible.
- (C) Wireless communication facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

(6) Environmental Standards.

- (A) Locating of wireless communication facilities in wetland buffer areas shall be avoided whenever possible; disturbance to wetland buffer areas shall be minimized.

(B) Stormwater run-off shall be contained on-site.

(7) Modification.

Except for the requirements of (3) (A), (B), and (C) herein, a modification to any requirement of this section may be granted if the applicant demonstrates an existing significant gap in coverage to users who either cannot connect to the existing national network or cannot maintain a signal and demonstrate that the coverage gap is being filled with the least intrusive means.

(8) Monitoring and Maintenance.

(A) Within 90 days of beginning operations, and at annual intervals from the date of issuance of the CUP, the applicant shall submit measurements of RFR at the facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines.

(B) Within 90 days of beginning operations, and at annual intervals from the date of issuance of the CUP, the applicant shall submit measurements of noise from the facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet applicable noise standards.

(C) The applicant and co-applicant shall maintain the wireless communication facility in good condition, and in a manner that maintains the stealth or camouflage design. Such maintenance shall include, but not be limited to, painting, structural integrity of the mount and security barrier, maintenance of the buffer areas, and landscaping.

(D) Annual Information Report.

1. Owners shall annually submit an annual report to the Township on or before January 31 of each year. The annual report shall include the tower owner's name, address, phone number, and contact person, landowner's name, address and phone number, annual review fee, proof of bond as security for removal, and the legal description of the location of the tower. The tower owner shall supply the tower height and current occupancy.
2. Annual Report Fee. The tower owner shall remit, on or before January 31 of each year, an annual review fee per tower set by the Town Board. The fee for this review will be waived for stealth towers.

3. At any time that the Township has reason to believe that an existing wireless communication facility has become a safety risk or is structurally unsafe, it may require the permit holder to perform an inspection of the tower by a registered engineer and to provide a copy of the inspection results to the Township within sixty days of the Township's order. The Township shall provide the owner of the tower with the information that formed the basis for the Township's belief that the tower was unsafe before ordering an inspection of the tower be performed.
 - (E) Wireless communication facilities shall be removed once they are no longer in use and not a functional part of providing telecommunications service. It is the responsibility of the permittee to remove such facilities.
 - (F) The Township may require the design of a wireless communication facility to be modified if it is established in the future that required service can be provided with a less intrusive facility.
 - (G) The telecommunications tower owner shall furnish to the Township a performance bond by a surety satisfactory to the Township in the amount of a written estimate from a qualified tower removal contractor guaranteeing that the wireless communications facility will be removed when no longer in operation.
- (9) **Application Requirements - New Towers.**
General Filing Requirements. In addition to the general requirements for conditional use permit applications, all application for new towers must also include the following:
- (A) A written description of the proposal.
 - (B) All of the appropriate application materials and escrow fees.
 - (C) Proposed location of wireless communication facilities, including the following:
 1. A map showing property lines for the subject property and showing property lines of all properties within 500 feet of the subject property.
 2. Location of all roads, public and private, on the subject property and on all adjacent properties within 500 feet including driveways proposed to serve the wireless communication facilities.

3. Outline of all existing buildings, labeled with principal use (e.g., residential, garage, accessory structure, etc.) on subject property and all adjacent properties within 500 feet.
- (D) Map, parcel number, legal description and property ownership for the location of the proposed wireless communication facilities.
- (E) Site data, including:
1. Scaled drawings of the proposed tower, antennas, equipment shelter(s), cable runs, parking areas and any other construction or development attendant to the proposed wireless communication facilities.
 2. Contours at each two feet above mean sea level (AMSL) for the subject property and adjacent properties within 500 feet.
 3. Distances, at grade, from the proposed wireless communication facilities to each building on the vicinity plan.
 4. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
 5. Tree cover on the subject property by dominant species and average height, as measured by or available from a verifiable source.
 6. A viewshed analysis using digital elevation data to create a map showing areas from which the camouflage wireless communication facilities will be visible, indicating that camouflage facilities will not be visible from Highways 96, 95 or County Road 15, the surface of the St. Croix River and its public areas, existing or proposed parks, or DNR protected lakes and waters.
 7. Existing (before condition) photographs. Photographs taken from the periphery of the viewshed north, south, east and west of the proposed wireless communication service facilities.
 8. Proposed (after condition) photo image. Each of the existing condition photographs shall have the proposed wireless

communication service facilities superimposed on it to show what will be seen after construction.

9. Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed wireless communication service.
 10. Equipment information for all of the proposed wireless communication facilities such as manufacturer's specifications or trade journal reprints.
 11. Materials of all of the proposed wireless communication facilities specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.).
 12. Colors for all of the proposed wireless communication facilities represented by a color board showing actual colors proposed.
 13. Dimensions for all of the proposed wireless communication facilities specified for all three directions: height, width and breadth.
 14. Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- (F) A report from a qualified and licensed professional engineer that:
1. Describes the tower height and design including a cross section and elevation.
 2. Certifies the tower's compliance with structural and electrical standards.
 3. Describes the tower's capacity, including the potential number and type of antennas that it can accommodate.
 4. Describes the lighting to be placed on the tower if such lighting is required by the FCC or FAA.
 5. Describes that the applicant will avoid causing destructive interference to co-located, previously established public safety communications.

6. Specifies the distance to any DNR protected lake or river, the St. Croix River, a scenic road designated in part (4)(D), and any boundary of an existing or proposed park.
- (G) Zoning district designation for the proposed wireless communication facilities.
 - (H) A map showing all other existing wireless communication facilities in the Township and within three (3) miles outside its limits.
 - (I) An address of each governmental unit in Wisconsin and Minnesota from which the tower could be visible, including both State Historical Preservation Offices and the National Park Service. Written notification of the application will be sent to these agencies by the Township.
 - (J) Copies of all materials already provided to the Federal Communication Commission. Copies of materials provided subsequently shall be given to the Township within 30 days of being provided.
 - (K) The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed wireless communication facilities for the following:
 1. Existing, or ambient noise.
 2. Existing plus proposed wireless communication facilities; maximum estimate of noise from the proposed wireless communication facilities plus the existing noise environment.Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the applicable noise standards.
 - (L) The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed wireless communication facilities, for the following:
 1. Existing, or ambient RFR.
 2. Existing plus proposed wireless communication facilities; maximum estimate of RFR from the proposed wireless communication facility plus the existing RFR environment.

Such statement shall be certified and signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines.

- (M) An Environmental Assessment (EA) that meets FCC requirements shall be attached to the application.

The National Environmental Policy Act (NEPA) applies to all applications for proposed wireless communication service facilities. The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any proposed wireless communication facilities in or involving wilderness areas, wildlife preserves, endangered species habitat, historical site, Native American religious site, flood plain, wetland, high intensity white lights in residential neighborhoods, or excessive radio frequency radiation exposure.

- (N) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the proposed wireless communication facility that are considered hazardous by the federal, state or local government or state that there are none.
- (O) A statement that the applicant and any co-applicant agree that the Township is authorized to retain independent experts to review technical materials submitted or to prepare any technical materials required but not submitted, and that applicant and any co-applicants will be jointly and severally responsible for the costs. An escrow for such costs, as estimated by the Township, will be submitted by the applicant prior to an application being deemed complete. Subject to the provisions of any applicable law governing government data, any proprietary information disclosed to the Township's experts shall remain non-public and subject to the terms and conditions of a properly executed non-disclosure agreement.
- (P) Each application shall include a five-year wireless communication facilities plan containing the following information. The plan must be updated with each submittal as necessary:
 1. Written description of type of consumer services each company/carrier will provide to its customers over the next five years (Cellular, Personal Communication Services, Specialized Mobile Radio, Paging Private Radio or other anticipated communications technology).

2. A list of all existing sites, existing sites to be upgraded or replaced, and proposed cell sites within the County for these services by the applicant.
3. A presentation size map of the County that shows the five-year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.

- (Q) Written acknowledgment by the applicant and landowner that they will abide by all applicable conditional use permits.
- (R) Appropriate visual impact demonstrations including mock-ups and/or photo montages; screening and painting plans; network maps; alternative site analysis; lists of other nearby telecommunication facilities; or facility design alternatives for the proposed tower.

(10) Term of Permit and Revocation.

- (A) A conditional use permit or certificate of compliance will remain in effect so long as the conditions contained in the certificate or permit are met.
- (B) The grounds for revocation of a certificate or conditional use permit shall be based on a finding that:
1. The permittee has failed to comply with conditions of approval imposed; or
 2. The facility has not been properly maintained; or
 3. The facility is no longer in use and has not been in use for the previous 12 months.
- (C) In the event of revocation of a permit, the tower and all accessory structures must be removed and the site restored to its original condition within 120 days. Failure to do so will result in the Township completing the removal and site restoration and the Township's cost shall be assessed against the property.

Section 3. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED by the Board of Supervisors of Stillwater Township this 12 day of April, 2001.

STILLWATER TOWNSHIP

BY: 
Its Chairperson

ATTEST:

Pat Bantli, Clerk

