

ARTICLE III. - WIRELESS TELECOMMUNICATION FACILITIES

Sec. 7-91. - Wireless communication facility development standards.

General. The following definitions and development standards for the zoning jurisdiction of the City shall; 1) apply to the installation, construction, attachment, removal, and alteration of facilities to accommodate wireless communication facilities; 2) provide the criteria for evaluating such proposed activities; 3) provide a procedure for the suitability certification and accomplishing related purposes.

(Ord. No. 1026, § 1901, 8-21-03)

Sec. 7-92. - Purpose.

General. In recognition of the requirements of the Federal Telecommunications Act of 1996, this article is designed and intended to balance the interests of the residents of Escanaba, telecommunications providers, and telecommunications customers in the siting of telecommunication facilities within the city of Escanaba, so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the city and its residents. This article establishes general guidelines for the siting of wireless telecommunication towers; and antennas to enhance and fulfill the following:

- (1) Preserve the authority of the City of Escanaba Planning Commission to provide for reasonable opportunity for the siting of telecommunications services and to provide such services to the community effectively and efficiently;
- (2) Minimize the visual impact of such facilities as viewed from other vantage points;
- (3) Provide a range of locations for wireless communication facilities throughout the city;
- (4) Encourage the location of wireless communication facilities onto existing structures to reduce the number of new communication towers needed within the city;
- (5) Encourage co-location and site sharing of new and existing wireless communication facilities;
- (6) Control the type of tower facility constructed when towers are permitted;
- (7) Establish adequate development and design criteria to enhance the ability of providers of telecommunications services to provide service to the community quickly, effectively, and efficiently;
- (8) Enhance prosperity through protection of property values; and reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics environmentally sensitive areas, historically significant locations, flight corridors and scenic corridors from the uncontrolled development of wireless communications facilities by requiring reasonable siting conditions;
- (9) Promote the use of suitable lands for the location of wireless antennae, towers, and/or wireless communication facilities;
- (10) Insure the harmonious, orderly and efficient growth and development of wireless communication facilities within the city;
- (11) Enhance the economy of the city through the continued use of the city's public resources;
- (12) Provide development standards for the development of wireless communication facilities which are consistent with the requirements of the Federal Telecommunications Act of 1996 and in the best interest of the future of the city;
- (13) Provide clear performance standards addressing the siting of wireless communication facilities;

- (14) Streamline and expedite the permitting procedures to effect compliance with the Federal Telecommunications Act of 1996; and
- (15) Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and building code compliance; and provide a mechanism for the city to remove these abandoned towers to protect the citizens from imminent harm and danger.

(Ord. No. 1026, § 1902, 8-21-03)

Sec. 7-93. - Certain uses not covered by this article.

General. Nothing in the article shall affect the right of a property owner to continue any legal nonconforming use.

(Ord. No. 1026, § 1903, 8-21-03)

Sec. 7-94. - Interpretation and definitions.

- (a) *Construction of other ordinances.* To the extent these development standards conflict with other ordinances for the city, these development standards shall control.
- (b) *Rules for words and phrases.* For the purposes of this section, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory; the word "may" is permissive; the word "used" includes designed and intended or arranged to be used or occupied; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.
- (c) *Definitions.* For the purpose of this section certain words, phrases and terms used herein shall be interpreted. Any word, phrase or term not defined herein, shall be interpreted based upon its common and ordinary usage in the region. The director of community development and planning for the city or designee, shall define any word, phrase or term not defined herein. The interpretation shall be based upon its common and ordinary usage in the region.

Alternative tower structure. Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles and similar design mounting structures that camouflage or conceal the presence of antenna arrays or towers.

Antenna array. An antenna array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure.

Attached wireless communication facility. An attached wireless communication facility is an antenna array that is attached to an existing building or structure (attachment structure), which structures shall include, but not be limited to, utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

Co-location/site sharing. Co-location/site sharing shall mean use of a common wireless communication facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of an antenna array on a structure owned or operated by a utility or other public entity.

Essential services. Services provided by a public utility or government agencies through erection, construction or maintenance of underground or overhead gas, electrical, steam or water transmission and distribution systems, and collection, communications, supply or disposal systems. Facilities necessary for the provision of essential services including pole wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith.

Equipment facility. An equipment facility is any structure used to contain ancillary equipment for a wireless communication facility, which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.

Federal Aviation Administration. FAA

Federal Communications Commission. FCC

Federal Telecommunications Act of 1996. FTA.

Guy wire. A cable used to secure and steady a tower.

Height. When referring to a wireless communication facility, height shall mean the vertical distance measured from ground level to the highest point on the wireless communication facility, including the antenna array and other attachments.

Monopole. Any tower consisting of a single pole, constructed without guy wires or ground anchors.

Pre-existing towers and antennas. Any tower or antenna lawfully constructed or permitted prior to the adoption of this article as well as the replacement of any such towers and antennas.

Setback. Setback shall mean the required distance from the property line of the parcel on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

Support structure. A support structure is a structure designed and constructed specifically to support an antenna array, and may include a monopole, self supporting (lattice) tower, guy-wire-support tower and other similar structures. Any device (attachment device) which is used to attach an attached wireless communication facility to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.

Temporary wireless communication facility. Temporary wireless communication facility shall mean a wireless communication facility to be placed in use for ninety (90) or fewer days.

Tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, digital communication towers, alternative tower structures and the like.

Tower and antenna use application (TAA). A form provided to the applicant by the city for the applicant to specify the location, construction, use and compliance with the development standards of a proposed wireless communications facility.

Wireless communications. Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services.

Wireless communication facility. A wireless communication facility is any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

(Ord. No. 1026, § 1904, 8-21-03)

Sec. 7-95. - Location for wireless communication facilities and applicability.

(a) *General.* The following wireless communication facilities may be allowed within the city as follows;

- (1) *Tower and support structure.* Wireless communication facilities with support structures shall only be permitted in light manufacturing districts (AE) and heavy manufacturing districts (AF) by means of a special use permit. A proposal for a new wireless communication facility shall not be approved unless the zoning board of appeals finds that the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative

structures within a one-mile search radius of the proposed wireless communications facility due to one or more of the following reasons:

- a. *Structural capacity.* The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as documented by a qualified and licensed State of Michigan professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at reasonable cost.
 - b. *Equipment interference.* The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by an intermodulation study prepared by qualified personnel and the interference cannot be prevented at a reasonable cost.
 - c. *Necessary height.* Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified personnel and supported with radio frequency propagation studies.
 - d. *Costs.* The fees, costs or contractual provisions required by the owner in order to share an existing tower or other structure to adapt an existing tower or other structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - e. *Limiting factors.* The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (2) *Antenna attachments.* Antenna attachments onto existing support structure or onto an attached wireless communication facility shall be permitted by administrative approval subject to the development criteria of section 7-96 of this article.
- (b) *General.* The following shall apply in the city:
- (1) *Tower and antenna special use permit required.* No person, firm or corporation shall install or construct any wireless communication facility unless and until a special use permit has been issued pursuant to the requirements of this article.
 - (2) *Pre-existing wireless communication facility.* Wireless communications facilities which were installed prior to the effective date of this article shall be considered as nonconforming.
 - (3) *Amateur radio exclusion.* This section shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator.
 - (4) *Relationship to other ordinances.* Except for historic districts, this section shall supersede all conflicting requirements of other ordinances regarding the locating and permitting of wireless communication facilities.
 - (5) *Airport zoning.* Any wireless communication facility located or proposed to be located in airport areas governed by the Federal Aviation Administration shall also comply with the provisions of all applicable local, state and federal airport regulations.
 - (6) *Building codes.* Construction of all wireless communication facilities shall comply with the requirements of the State of Michigan Building, Electrical and Mechanical Codes and permitting process in addition to the requirements of this section.
 - (7) *Essential services and public utilities.* Wireless telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the city's ordinances and regulations. Siting for telecommunications facilities is a use of land and subject to the city's zoning ordinance and all other applicable ordinances and regulations.

(Ord. No. 1026, § 1905, 8-21-03)

Sec. 7-96. - Development standards.

- (a) *General.* Development standards for wireless communication facilities will include the following development standards:
 - (1) *Height standards.* The following height standards shall apply to all wireless communications facility installations:
 - a. *Attached wireless communications facilities.* Attached wireless communication facilities shall not add more than twenty (20) feet to the height of the existing building or structure to which it is attached (attachment structure). However, antenna attachments to existing wireless communication facilities with support structures shall not increase the height of the support structure above the maximum original permitted height of that support structure.
 - (b) *Height review.* Height for wireless communication facilities with support structures shall be reviewed on a case-by-case basis as part of the special use permit process.
 - (c) *Setback standards.* The following setback standards shall apply to all wireless communication facility installations:
 - (1) *Attached wireless communications facilities.* Attached wireless communications facilities shall meet the setback provisions of the underlying zoning district in which they are located. However, an attached wireless communication facility antenna array may extend up to thirty (30) inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.
 - (2) *Wireless communications facilities with support structures.* Wireless communications facilities with support structure shall meet the setback requirements for principal structures of the underlying zoning district in which they are located.
 - (3) *Landscaping.* The following landscaping requirements shall be maintained by the applicant and shall apply to all wireless communications facility installations:
 - a. *New construction.* New wireless communications facilities with support structures and attached wireless communication facilities with new building construction shall be landscaped with a minimum landscaped area of ten (10) feet around the perimeter of the security fence meeting the following standards:
 - 1. One row of evergreen trees with a minimum trunk diameter of 1.75 inches shall be installed with a maximum spacing of twenty-five (25) feet.
 - (d) *Shrub specifications and standards.* Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five (5) feet shall be planted with a maximum spacing of five (5) feet. Plants shall be at least three (3) gallon container plants or twenty-four (24) inches tall at the time of planting.
 - (1) *Indigenous plants and trees.* All plants and trees shall be indigenous to the City of Escanaba and Delta County and drought resistant.
 - (2) *Land form preservation.* Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided, however, that vegetation that causes interference with the antennas or inhibits access to the equipment facility may be trimmed or removed.
 - (3) *Existing vegetation.* Existing vegetation on a wireless communication facility site may be used in lieu of required landscaping where approved by the code official or designee.
 - (4) *Minimum site disturbance.* Grading for the new wireless communication facility shall be minimized and limited only to the area necessary for the new facility.
 - (e) *Aesthetics, placement, materials and colors.* The following standards shall apply to all new antenna arrays and new wireless communications facilities:
 - (1) *Antenna array attachment compatibility.* Antenna array attachments shall be designed so as to be compatible with the wireless communication facility to which it is to be affixed; including, but not limited to, matching the proposed array with existing structural design, facade colors, and camouflage technology.

- (2) *Surroundings compatibility.* New wireless communication facilities shall be designed to be compatible with existing structures and surroundings to the extent feasible. The use of compatible or neutral colors, and camouflage technology may be consistent with existing structures and surroundings to the extent feasible.
- (3) *Lighting.* The following lighting requirements shall apply to all wireless communications facility installations. Wireless communications facilities shall not be artificially illuminated, directly or indirectly, except for:
 - a. *Security and safety lighting.* Security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site;
 - b. *Other requirements.* Such illumination of the wireless communications facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences; and
 - c. *Other required lighting.* Unless otherwise required by the FAA or other applicable authority, the required light shall be red and a type of lens used to reduce ground lighting when the site is within one hundred (100) feet of a residential dwelling.
- (4) *Signage.* Wireless communications facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing wireless communications facilities.
- (5) *Fencing.* Wireless communications facilities with support structures shall be enclosed by a privacy fence constructed of wood, vinyl or metal not less than six (6) feet in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet requirements of state or federal agencies.
- (6) *Radio frequency emissions/sound.* The following radio frequency emissions standards shall apply to all wireless communications facility installations:
 - a. *Radio frequency impact.* The FTA gives the FCC jurisdiction of the regulation of radio frequency (RF) emissions, and wireless communications facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
 - b. *FCC compliance.* In order to provide information to its citizens, copies of ongoing FCC information concerning wireless communications facilities and RF emissions standards may be requested from time to time. Applicants for wireless communications facilities shall be required to provide information with the application on the measurement of the effective radiated power of the facility and how this meets the FCC standards.
 - c. *Sound prohibited.* No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.
- (f) *Structural integrity.* Wireless communications facilities with support structures shall be constructed to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Support Structures"(or equivalent), as it may be updated and amended. Each support structure shall be capable of supporting multiple antenna arrays.
- (g) *Co-location support structure design.* All wireless communication facilities with a support structure up to a height of one hundred fifty (150) feet shall be engineered and constructed to accommodate at least three (3) separate antenna arrays. All wireless communication facilities with a support structure greater than one hundred fifty (150) feet shall be engineered and constructed to accommodate at least four (4) separate antenna arrays.
- (h) *Co-location agreement.* All applicants for wireless communications facilities are required to submit a statement with the application agreeing to allow and reasonably market co-location opportunities to other wireless communications facility users. The statement shall include the applicant's policy

regarding co-location of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The co-location agreement shall be considered a condition of issuance of a special land use permit. A TAA shall not be issued unless the applicant complies with the co-location policy outlined in this subsection.

- (i) *Federal requirements.* All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with revised standards and regulation within six (6) months of their effective date shall constitute grounds for the removal of the tower or antenna in accordance with the requirements of section 7-100 of this article.

(Ord. No. 1026, § 1906, 8-21-03)

Sec. 7-97. - Review process.

- (a) *General.* The applicable development criteria referred to herein are those set forth in section 7-96 of this article.
- (b) *Permitting procedures.* Attached wireless communications facilities and/or antenna array attachments onto existing structures that meet the development criteria may be permitted by administrative review. All other proposed wireless communication facilities shall be subject to the special land use permit process.
- (c) *Site plan application/site plan review approval.* A site plan application and site plan review approval are required for any wireless communication facility construction. Co-location of facilities must meet all current site plan review regulations.
- (d) *Temporary wireless communications facilities.* Temporary wireless communications facilities may be permitted by administrative approval for a term not to exceed ninety (90) days. Once granted, a temporary wireless communications facility permit may be extended for an additional ninety (90) days upon evidence of need by the applicant. In case of emergency (e.g., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) the administrative review shall be expedited to the extent feasible.

(Ord. No. 1026, § 1907, 8-21-03)

Sec. 7-98. - Approval process.

- (a) *Application submission.* All tower antenna use applications, regardless of wireless communication facility type shall include all of the requirements contained in this section.
 - (1) *Application contents.* Each applicant requesting a TAA under this article shall submit a sealed complete set of drawings prepared by a licensed architect or engineer that will include a site plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation. Radio frequency propagation maps shall be required for all new tower applications, showing the extent and strength of proposed coverage from the proposed tower, and shall also include the coverage afforded by adjoining existing WCF sites.
 - (2) *Submission requirements.* Application for a TAA shall be submitted to the city on forms prescribed by the city. The application shall be accompanied by a site plan containing the information described above. Each applicant must provide a copy its FCC license providing authorization for the applicant to operate, receive and transmit wireless communication services for the WCF. If planning commission board review is required, the application and site plan shall be placed on the next regularly scheduled meeting agenda in accordance with the agenda deadlines established by the city planning commission.

- (3) *Application fees.* A plan review fee of five hundred dollars (\$500.00) shall accompany each application.
 - (4) *Additional technical assistance.* In the course of its consideration of an application, the city, may deem it necessary to employ an engineer(s) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the city in the technical aspects of the application. In such cases, any additional reasonable costs incurred by the city not to exceed two thousand (\$2,000.00) for the technical review and recommendation shall be reimbursed by the applicant prior to the final city hearing on the TAA. The city may also require additional review fees, as necessary, including, but not limited to, intermodulation and propagation map studies. These fees shall be reimbursed, at cost, by the applicant.
- (b) *Administrative review.* The following administrative review process shall apply to all wireless communications facility applications eligible for administrative review:
- (1) *Review authority.* Review of the tower and antenna special land use application (TAA) under this section shall be conducted by the city manager, or designee, upon filing a TAA.
 - (2) *Review criteria.* Each application shall be reviewed for compliance with the development criteria specified in section 7-96
 - (3) *Timing of decision.* The city manager, or designee, shall render a decision on the wireless communication facility application by written response to the applicant within twenty (20) business days after receipt of the complete application, except that an extension may be agreed upon by the applicant.
 - (4) *Application denial.* If administrative approval is not obtained or is denied due to noncompliance with the development criteria, the applicant may appeal the denial by applying for zoning board of appeals review.
 - (5) *Application approval.* If the TAA application together with all required addenda are in compliance with the development criteria and otherwise meets the requirements of this section, the city manager, or designee, may approve the tower antenna use application and authorize issuance of the proper permits.
- (c) *Planning commission review.* The following shall apply to all tower and antenna use applications requiring submission to the planning commission:
- (1) *Review authority.* The planning commission shall be the review authority for TAA applications not eligible for administrative review or otherwise referred to the planning commission.
 - (2) *Notice.* Notice of the application and the public hearing for the special land use permit by the planning commission shall be in accordance with the City of Escanaba Zoning Ordinance.
 - (3) *Hearing.* The planning commission shall review and consider the TAA application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The planning commission shall consider the following in reaching a decision:
 - a. *Development criteria.* The complete tower antenna use application shall be reviewed for compliance with the development criteria set forth in section 7-96; and
 - b. *Tower siting conditions.* The planning commission may recommend alternative development criteria, impose conditions or add restrictions on the application as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless communication facility with the surrounding property, in accordance with the purposes and intent of this article, provided the alternative development criteria, conditions or restrictions are reasonable and capable of being accomplished. The inclusion of additional conditions, development criteria or restrictions shall be by specific inclusion in a motion for approval.
- (d) *Findings of fact.* The special land use permit shall be granted when each of the following findings of fact have been made by the planning commission:

- (1) *Public endangerment.* The wireless communication facility will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
 - (2) *Required conditions and specifications.* The wireless communication facility meets all required conditions, specifications and development standards of this article;
 - (3) *Property value/public necessity.* The wireless communication facility will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
 - (4) *Location and character of use.* The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the jurisdiction and its environs;
 - (5) *Development conditions.* If applicable, additional development conditions are based upon the purpose and goals of this article; and
 - (6) *Accomplishment.* If applicable, additional development conditions are reasonable and capable of being accomplished.
- (e) *Action.* Following the public hearing and presentation of evidence, the planning commission shall take one of the following actions:
- (1) *Application approval.* Approve the application as submitted;
 - (2) *Approval with conditions/restrictions.* Approve the application with conditions that impose conditions or add restrictions on the application as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless communication facility with the surrounding property, in accordance with the purposes and intent of this article, provided the alternative development criteria, conditions or restriction are reasonable and capable of being accomplished. The inclusion of additional conditions, development criteria, or restrictions shall be by specific inclusion on a motion for approval;
 - (3) *Application referral.* Refer the application for additional information or neighborhood input; or
 - (4) *Application denial.* Deny the application in writing.
- (f) *Findings.* All decisions rendered by the planning commission concerning a tower antenna use application shall be supported by written findings of fact and conclusions of law based upon substantial evidence of record.
- (g) *Timing of decision.* The planning commission shall hold a hearing within sixty (60) days or less of the final submission of all required application documents and technical review, however, this time may be increased due to deferrals by either the applicant or the zoning board of appeals.
- (h) *Appeals.* The decision of the planning commission can be appealed to the city council.

(Ord. No. 1026, § 1908, 8-21-03)

Sec. 7-99. - Shared facilities and co-location policy.

General. All new wireless communication facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to co-locate with other existing wireless communication facilities and to accommodate the future co-location of other wireless communication facilities. A TAA shall not be issued until the applicant proposing a new wireless communications facility shall demonstrate that it has made a reasonable good faith attempt to locate its wireless communication facility onto an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against co-location.

(Ord. No. 1026, § 1909, 8-21-03)

Sec. 7-100. - Removal of abandoned support structures.

General. Any support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the City of Escanaba, at its election, may require the support structure owner to remove the support structure within ninety (90) days after notice from the city to remove the support structure. If there are two (2) or more users of a single support structure, this provision shall not become effective until all providers cease to use the support structure. If the owner of an abandoned support structure cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the support is located.

(Ord. No. 1026, § 1910, 8-21-03)

Sec. 7-101. - Nonconforming/existing facilities.

General. Wireless communication facilities in existence on the date of the adoption of this article which do not comply with the requirements of this article (nonconforming wireless communications facility) are subject to the following provisions:

- (1) *Expansion.* Nonconforming wireless communication facilities may continue in use for the purpose now used, but may not be expanded without complying with this article except as further provided in this section;
- (2) *Additions.* Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers) subject to administrative review under this article;
- (3) *Repairs or reconstruction.* Nonconforming wireless communications facilities which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions. Provided, however, that if the damage to the wireless communication facility exceeds fifty (50) percent of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this article;
- (4) *Discontinued use.* Any nonconforming wireless communications facility not in use for six (6) months shall be deemed abandoned and all rights as a nonconforming use shall cease.

(Ord. No. 1026, § 1911, 8-21-03)

Sec. 7-102. - Revocation of towers and antenna use applications.

- (a) *General.* The approval of any tower and antenna use application permit issued pursuant to this article may be revoked after a hearing as provided hereinafter.
- (b) *Violations.* If zoning enforcement finds that any permit holder has violated any provision of this article, or the condition, restriction, or additional development standards of an approved special use permit, or has failed to make good faith reasonable efforts to provide or seek co-location, the zoning enforcement officer of the city shall notify the permit holder in writing that the TAA is revocable due to the permit holder's noncompliance with the conditions of the permit. The zoning enforcement officer shall thereupon require the permit holder to correct the violation within a reasonable amount of time, and shall notify the permit holder, in writing, of the specific areas on noncompliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed sixty (60) days. The permit holder shall provide the city with evidence that the required corrective action has been taken.
- (c) *Compliance hearing.* Should the permit holder fail to correct any deficiencies in the time required, the city planning commission shall convene a public hearing to consider revocation of the tower antenna use application. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the city not less than ten (10) days prior to the hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The board may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided however, that stenographic services, if desired, shall be provided by the requesting party at that party's expense.

(Ord. No. 1026, § 1912, 8-21-03)

Sec. 7-103. - Penalty.

General. A operator, owner or person who violates any provisions of this article is responsible for a municipal civil infraction subject to payment of a civil fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus costs and other sanctions for each violation. Increased fines may be imposed for repeated violations by an operator, owner or person of any requirement or provision of this article. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provisions (i) committed by an operator, owner or person within any six (6) month period (unless some other period is specifically provided by ordinance or any other law); and (ii) for which the operator, owner or person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by any ordinance for a particular municipal infraction violation the increased fine for a repeat offense which is a first repeat offense shall be no less than two hundred fifty dollars (\$250.00), plus costs. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than five hundred dollars (\$500.00), plus costs. Each day on which any violations of this article or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. No. 1026, § 1913, 8-21-03)

Sec. 7-104. - Periodic review.

General. The planning commission shall routinely review the requirements of this article every five (5) years to ensure that it is current and accurate.

(Ord. No. 1026, § 1914, 8-21-03)