

ORDINANCE NO. 17, 4th SERIES

AN ORDINANCE OF THE CITY OF EAST GRAND FORKS, MINNESOTA, AMENDING CITY CODE CHAPTER 152 ENTITLED "(ZONING CODE)" BY AMENDING SECTION 152.317 TO CHANGE SECTION (D) 1 (e), ADDING SUBSECTION f, CHANGING 2 (a) (iv), AND CHANGING 2 (c), (d) and (g), REGARDING THE WIRELESS COMMUNICATIONS ANTENNAS AND TOWERS; AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 10.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY OF EAST GRAND FORKS ORDAINS:

Section 1. That Section 152.317 (D) of the City Code is hereby amended to read as follows, to-wit

D. General Requirements:

1. The planning department and planning commission shall consider, and the applicant shall demonstrate compliance with the following standards in determining whether to approve an application for a wireless communication antenna and/or tower:
 - a. Co-location of wireless communication facilities. As a condition of issuing a permit to construct and operate a wireless communication tower utilized for commercial purposes within the City's zoning jurisdiction, the applicant is required to demonstrate that a suitable location is not available for the placement of an antenna on any of the existing structures within the geographic area to be served. The City may request any feasibility studies associated with the said application which demonstrates that locations on existing structures have been explored as the preferred siting alternative. If another communication tower has been determined to be technically feasible by either the applicant or the City, the applicant must show that it has requested to co-locate on the existing tower and provide a letter from the communications carrier owning or operating the facility stating reasons for not permitting the co-location of transmitting facilities.
 - b. Wireless Communication Facilities. In all circumstances, owners of existing towers being utilized for commercial purposes shall respond to a request for co-location of transmitting facilities within thirty (30) days from the date of receipt of a written request. In the event that a wireless communications tower owner and/or operator has not responded to the said request, city council may defer the said application until the co-location issue is resolved. In all cases, it shall be the intent of the City to encourage the co-location of transmitting facilities.

- c. As a condition of issuing a permit to construct and operate a tower to be utilized for commercial purposes in the City, the owner/operator of the tower is required to allow co-location of wireless communication facilities until said tower has reached full antenna capacity. Thus the applicant is required to submit an affidavit stating that space on the proposed tower will be made available to future users when technically possible. Applicants cannot be denied space on a tower unless mechanical, structural, or regulatory factors prevent sharing. Agreement to this provision must be included in the lease by the landowner, if different from the owner/operator of the tower. Written documentation must be presented to the planning commission evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this section as well as the requirements, regulations, and standards established in this Chapter. As an additional condition of issuing the permit to construct and operate the tower within the City's zoning jurisdiction, the owner/operator of the tower is required to sign a statement that all disputes with future providers concerning the terms and conditions of co-location of wireless communication facilities shall be submitted to commercial arbitration under a system selected by the parties; but if the parties are unable to agree, then under the auspices of the Commercial Arbitration Provisions of the American Arbitration Association.
 - d. Efforts shall be made to utilize a location for the proposed wireless communication tower, which results in the least conspicuous or most aesthetically pleasing installation possible, while still providing reasonable signal access.
 - e. As a condition of issuing a permit to place a commercially utilized antenna in a Residential Zoning District, the applicant is required to install the antennas on either (i) an existing structure or (ii) a new structure that is of monopole or stealth design only. If a new monopole or stealth structure must be constructed, the applicant shall provide proof that no suitable locations exist for a tower or antenna facility within any other "permitted use" or "special use" areas in the local code.
 - f. Wireless Communications Towers of monopole or stealth design only may be allowed as a Special Use in a Residential Zoning District, but only when the property is primarily used for non-residential purposes, such as water tower sites and other City owned property, public and private educational institutions, religious institutions and outdoor recreation, including golf courses, tennis courts and swimming pools.
2. All wireless communication towers, antennas and associated equipment facilities shall meet the following applicable requirements:

- a. Height and setback requirements:
- i. Wireless communication antennas shall not exceed thirty (30) feet above the maximum building height as per zoning district regulations.
 - ii. Wireless communication antennas located outside a Residential Zoning District shall be set back a minimum of two hundred (200) feet from any Residential Zoning Districts.
 - iii. Wireless communication towers being utilized for commercial purposes shall only be constructed to the least height that is technically feasible to service the geographical service area of the applicant.
 - iv. Wireless communication towers being utilized for commercial purposes shall be set back a minimum of a distance equaling at least one hundred and fifteen percent (115%) of a height of the proposed structure.
 - v. Wireless communication towers being utilized in a Residential Zoning District for non-commercial purposes shall not exceed thirty (30) feet above the maximum building height as per zoning district regulations.
 - vi. Wireless communication towers located in non-residential zoning districts, with the exception of guyed towers, shall be setback from the lot line and any type of development (i.e. buildings, parking lots, etc.) a distance equaling at least one hundred and fifteen percent (115%) of the tower height to ensure the safety of surrounding uses.
 - vii. Guyed wireless communication towers shall setback from the lot line and any type of development (i.e. buildings, parking lots, etc.) according to the following ratios of distances:

Number of Levels of Guy Along Height Of Tower	Ratio of Height of Tower to Distance From Base to Property Line
2 or less	1:1
3	3:2
4	2:1
5	5:2
6	3:1

- b. When guyed wireless communication towers are used, all anchor points from the guys are required to be on the same property as the tower.
- c. In Commercial Zoning Districts wireless communication towers shall only be permitted as monopoles and lattice towers. Guyed towers shall be prohibited.
- d. In Residential Zoning Districts, communication antennas being utilized for commercial purposes shall only be situated within existing high-tension lattice towers, installed using architectural components on non-residential buildings, monopoles or other stealth designs, and only upon property that is used for non-residential purposes.
- e. Wireless communication towers being utilized for non-commercial purposes shall be prohibited from locating in a front-yard or in the front half of a side-yard within a residential zoning district.
- f. Wireless communication antenna and/or tower design shall utilize colors and materials that effectively reduces their visual impact.
- g. Wireless communication towers being utilized for commercial purposes may be required by the City to be designed to have sufficient structural capacity to allow for three (3) providers to be located on the structure. The wireless communication facility may be required by the City to also be designed to show that the applicant has sufficient space on its site plan for an equipment building large enough to accommodate three (3) users. If an equipment building is initially constructed to accommodate only one (1) user, space may be required by the City to be reserved on site for equipment building expansions to accommodate three (3) users.

Section 2. City Code Chapter 10 entitled "Definitions and General Provisions Applicable to Entire City Code Including Penalty for Violation" and Section 10.99 entitled "GENERAL PENALTY" are hereby adopted in their entirety, by reference, as though repeated verbatim herein.

Section 3. This ordinance shall take effect and be in force from and after its passage and publication and be given the Number 17, 4th Series.

Voting Aye: Olstad, Grassel, DeMers, Vetter, Pokrzywinski, Buckalew, and Tweten.
Voting Nay: None.
Absent: None.

The President declared the Ordinance passed.

ATTEST:

PASSED: October 20, 2015

City Administrator/Clerk-Treasurer

President of Council

I hereby approve the foregoing Ordinance this 20th day of October, 2015.

Mayor