

# Title 13 ► Chapter 2

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## General Provisions

13-2-1	Jurisdiction
13-2-2	Compliance
13-2-3	Permits
13-2-4	Fees
13-2-5	Use Regulations
13-2-6	Nonconforming Uses
13-2-7	Area Regulations
13-2-8	Yard Regulations and Exceptions
13-2-9	Height Regulations and Exceptions/Towers
13-2-10	Parking and Loading Area Requirements
13-2-11	Reimbursement of Town Fees and Costs

### **Sec. 13-2-1 Jurisdiction**

The provisions of this ordinance shall apply to the land, water, air, and all structures both above and below ground within the Town of Friendship, Fond du Lac County.

### **Sec. 13-2-2 Compliance**

No structure, land, water, or air shall hereafter be used without full compliance with the provisions of this ordinance and all applicable local, state, county, and federal regulations.

### **Sec. 13-2-3 Permits**

No building, structure or manufactured home shall hereafter be created, moved, or structurally altered, except as hereinafter provided, until a permit therefor shall have been applied for and issued. No permit shall be issued until the Building Inspector has satisfactory proof that the premises are in full compliance with the Fond du Lac County Subdivision, Shoreland Zoning, and Flood Plain Zoning Ordinances, and that a Fond du Lac County Sanitary Permit for the installation of a private sewage system to serve the premises has been issued, except that lots served by public sewer shall not require a county sanitary permit.

1. LAND USE PERMITS: All uses listed as permitted uses in the respective zoning districts require a land use permit.
  - (a) Application: All applications for land use permits shall be made to the Building Inspector. Such applications shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved the existing and/or intended use of each building or part of a building, the

number of families the building is intended to accommodate, and such other Information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this ordinance. All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

- (b) In addition to all other plans required under this ordinance, an applicant for a land use permit must provide plans showing, to the satisfaction of the Building Inspector, that the proposed use, construction or alteration will not cause surface water to drain onto adjoining properties owned by someone other than the applicant. No land use permit may be issued unless the plans show that the use, construction or alteration will not cause an increase in surface water drainage onto such adjoining properties.
  - (c) No land use permit may be issued unless the proposed use, construction or alteration complies with all terms of this ordinance and all other applicable town and county ordinances.
  - (d) Exterior of building and of lot grading must be completed within twelve months of issued date of building permit.
2. **CONDITIONAL USE PERMITS.** All uses listed as conditional uses with the respective zoning districts require a conditional use permit. A "Conditional Use" is a use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established herein. It is hereby declared the policy and purpose of this ordinance to employ the conditional use permit as a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual and property rights.
- (a) **Application:** All applications for conditional use permits shall be made to the Board of Appeals. The application shall, at a minimum, contain the information listed in Section 13-2-3 (1)(a) of this ordinance. The Board of Appeals may also require the applicant to submit a detailed site plan containing any applicable information listed in Section 13-17-2 (38) of this ordinance.
  - (b) **Standards for Authorizing Conditional Uses:** Conditional Use Permits may be authorized by the Board of Appeals in accordance with the procedure set forth in Chapter 14-2, provided:
    - 1. That it is reasonably necessary for the public convenience at that location.
    - 2. That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.
    - 3. That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.
    - 4. That in the case of an existing non-conforming use, will make such use more compatible with its surroundings.
    - 5. Additional standards are established in the respective zoning districts shall apply to selected conditional uses.
3. **BUILDING PERMIT:** No vacant land shall be occupied or used, and no building or manufactured home hereafter erected, altered or moved shall be occupied until the building permit shall have been issued by the Building Inspector. Such permit shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this ordinance.
- (a) **Temporary Building Permit:** Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary building permit for part of a dwelling.

- (b) Building Permit for Existing uses: Upon written request from the owner, the Permit Issuer shall issue a building permit for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.
- (c) Uniform dwelling code on new housing construction and for all additions over \$50,000.00.

### **Sec.13-2-4 Fees**

1. LAND USE PERMITS. A fee in an amount determined by the Town Board is required to be paid by the applicant for a land use permit, or for a building permit where no land use permit was required. The fee shall be paid to the Town Treasurer.
2. CONDITIONAL USE PERMITS, VARIANCES, AND APPEALS: A fee in an amount determined by the Town Board is required to be paid by the applicant for each application for a conditional use permit, variance, or appeal to the Board of Appeals. Such fee shall be paid to the Town Treasurer and receipt therefore filed with the application. This fee shall not be required of any town officers acting in his or her official capacity.
3. AMENDMENTS: A fee in the amount to be determined by the Town Board is required for any petition for the amendment of this zoning ordinance. Such fee shall be paid to the Town treasurer and receipt therefore filed with the amendment petition. In addition thereto, a petitioner shall be charged with the cost of the official newspaper publication of the notice of hearing. This provision shall not apply to amendments initiated by the Town Board.

### **Sec. 13-2-5 Use Regulations**

The use and height of building hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.

1. MINIMUM FLOOR AREA FOR RESIDENTIAL STRUCTURES: The minimum habitable floor area of residential structures at the first floor elevation shall be 24 foot wide and a minimum of 960 square feet.
2. FOUNDATION REQUIRMENTS FOR RESIDENTIAL STRUCTURES: All residential structures shall be securely anchored to a permanent footed foundation or concrete pad.
3. ACCESSORY STRUCTURES UNO USES: Accessory structures and uses clearly incidental to permitted uses shall be permitted subject to the requirements of this section and other requirements as may be hereinafter designated for the zoning district in which they are located. Accessory structures and uses shall be compatible with the principle use unless otherwise approved by the Town board.
4. SWIMMING POOLS: Swimming pools shall be permitted in any district within the town, provided however that where the water level exceeds one foot in depth, no swimming pool shall hereafter be constructed, enlarged, or altered, except in accordance with the following provisions:
  - (a) Permanent pools shall maintain a minimum side and rear yard clearance of 20 feet from adjoining properties. No land use permit for the construction, alteration or enlargement of any pool shall be issued by the Permit Issuer unless the same be accompanied by plans showing the location of the pool and adequate provisions for drainage.
  - (b) Service drop conductors and any other open overhead wiring shall not be installed above the swimming pool or surrounding area extending 10 feet horizontally from the pool edge, or diving structure, observation stands, towers or platforms. Underground wiring must be at least five feet horizontally from the pool edge and all wiring must comply with chapter 680 of the State Electrical Code.

5. PONDS: Ponds shall be permitted in any district within the said town, provided, however, that no pond shall hereinafter be constructed, enlarged or altered, except in accordance with the following provisions:
  - (a) Ponds shall maintain a minimum side yard and rear yard clearance of 50 feet from adjoining properties and shall be at least 110 feet from the center of any highway. Sides of all ponds are to be tapered from the edges to increase in depth at a rate of no more than two (2) feet in depth for each three feet distance from the edges of the pond until such pond attains a depth of 6 feet; thereafter, tapering shall not be required. Where necessary to keep ground water and fill from going on adjoining property, a permanent wall constructed of concrete or masonry shall be installed. No land use permit for the construction, alteration or enlargement of any pond shall be issued by the Permit Issuer, unless the same be accompanied by plans showing the location of the pond and the exact location and adequate provisions for drainage.
  - (b) Service drop conductors and any other open overhead wiring shall not be installed above The pond or surrounding area extending 10 feet horizontally from the pond edge, or diving structure, observation stands, towers or platforms. Underground wiring must be at least five feet horizontally from the pool edge and all wiring must comply with chapter 680 of the State Electrical Code.

## **Sec. 13-2-6 Nonconforming Uses**

1. CONTINUED USE: The existing lawful use of a building or premises at the time of enactment or amendment of this ordinance may be continued although such use does not conform with the regulations for the district in which it is located, subject to the limitations enumerated in subsections (a-h) of this section. The requirements of this section do not apply to residences located in the A-1 or A-T Districts which were in existence prior to the adoption of the ordinance.
  - (a) Any structure or use which constitutes a nuisance shall not be permitted to continue as a non conforming use.
  - (b) Only that portion of an existing structure, land or water area occupied or actively engaged in lawful nonconforming use prior to the effective date of this ordinance may be continued. Such use or structure shall not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or to meet the requirements of this ordinance.
  - (c) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. Such use shall not thereafter be changed to a less restricted use.
  - (d) If a nonconforming use of a building premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulations for the district in which it is located.
  - (e) If a nonconforming use or structure is damaged to an extent greater than fifty percent of its assessed value, it shall not be restored except in conformance with the provisions of this ordinance.
  - (f) Nonconforming manufactured homes shall not be moved, relocated or placed unless in conformity with this ordinance.
  - (g) Nothing contained herein shall require any change in the plans, construction, size or designated use of any building or part thereof where construction commenced prior to the effective date of this ordinance.
  - (h) This section shall not be construed as prohibiting the necessary maintenance or repairs of buildings, utilities or property.

## **Sec. 13-2-7 Area Regulations**

1. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building on one lot.
2. No lot area shall be so reduced that yards and open spaces are smaller than is required by this ordinance, nor shall the density of population be increased in any manor except in conformity with the area regulations hereby established for the district in which a building or premises is located.
3. **SUBSTANDARD LOTS**
  - (a) A substandard lot not served by public sanitary sewer which is at least 10,000 square feet in area, and is at least 65 feet in width at the building line and the water's edge, may be used as a building site for a single family dwelling upon issuance of a zoning permit if it meets the following requirements:
    1. Such use is permitted in the zoning district.
    2. The lot is of record in the County Register of Deeds office prior to September 9, 1962, the effective date of the original Town Zoning Ordinance or any amendments thereto.
    3. The lot is in separate ownership from abutting lands as of September 9, 1962. If abutting land and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance.
    4. All dimensional requirements of this ordinance (including side yard and setback requirements) are complied with insofar as practical.
  - (b) A substandard lot served by public sanitary sewer which is at least 7,500 square feet in area, and is at least 50 feet in width at the building line and the water's edge, may be used as a building site for a single family dwelling upon issuance of a zoning permit if it meets the requirements of Section 13-2-7(3)(a)(1-4) of this ordinance.
  - (c) Other Substandard Lots: A building permit for the improvement of a lot having lesser dimensions than those stated in this ordinance shall be issued only after the granting of a variance by the Board of Appeals in writing wherein the conditions are stated.

## **Sec. 13-2-8 Yard Regulations and Exceptions**

1. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required for another building.
2. Accessory buildings which are not a part of the main building shall not exceed 1200 square feet or occupy more than 30% of the area of the required rear yard. Accessory buildings shall not be nearer than 5 feet to any lot line nor exceed 10 foot side walls nor exceed 16 feet in total height. Where an accessory building is part of the main building or is substantially attached hereto, the side yard and rear yard regulations applicable to the main building shall be applied to the necessary building. This section does not apply in the A-1 or A-T Districts.
3. No alterations to any building, except uncovered steps shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the next existing buildings on each side of such building.
4. Where a housing project consisting of a group of two or more buildings containing four or more dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this ordinance to the individual building units, the Board of Appeals may approve a development plan provided it complies with the regulations of this ordinance as applied to the whole plat.
5. Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a rear yard, and the ordinary projection of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.

6. Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet provided they be so located as not to obstruct light and ventilation.
7. Rear yard requirements may be waived for through lots, provided an equivalent open space is maintained on the lot and that the highway setback requirements for both streets are complied with.
8. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.
9. When a lot abuts on two or more streets or alleys having different established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher established grade.

## **Sec. 13-2-9 Height Regulations and Exceptions/Towers**

1. Heights of the following structures may exceed ordinance limits for the district in which they are located, subject to the limitations contained herein:
  - (a) Churches, schools, hospitals, sanitariums and other public and quasi-public buildings may be erected to a height not exceeding 65 feet nor 5 stories, provided the front, side and rear yards are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which the building is to be located.
  - (b) Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, televisions or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, micro-wave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Friendship.
  - (c) Wireless telecommunications towers and antennas may be installed, erected maintained pursuant to the provisions of this section.
  - (d) Residences in the Residential and Agricultural districts may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by 1 foot for each foot by which such building exceeds the height limit of the district in which it is located.
2. Purpose. The purpose of this ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for the use of providing personal wireless services, and the legitimate interest of the Town in regulating locate zoning. The goals of this ordinance are to protect land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and Innovative camouflaging techniques; consider the public health and a safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town shall give due consideration to the Zoning Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.
3. Definitions As used in this ordinance, the following terms shall have meanings set fourth herein:
  - (a) **Alternative Tower Structure:** Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.
  - (b) **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, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

- (c) **Backhaul Network:** The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
  - (d) **Collocation:** The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.
  - (e) **FAA:** Federal Aviation Administration.
  - (f) **FCC:** Federal Communications Commission.
  - (g) **Height:** When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.
  - (h) **Preexisting Towers/Antennas:** Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance.
  - (i) **Tower:** Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
4. **Applicability.**
- (a) **New Towers and Antennas:** All new towers or antennas in the Township shall be subject to these regulations, except as provided in Subsections 3(b) and 3(c).
  - (b) **Amateur Radio Station Operators/Receive Only Antennas:** This ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
  - (c) **Preexisting Towers or Antennas:** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Subsection 6(b).
5. **Permit Required.** No tower or antenna shall be installed unless a permit is first obtained by the owner or his agent from the Building Inspector. The following shall be required as part of the application submittal:
- (a) A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Building Inspector to be necessary to assess compliance with this ordinance.
  - (b) The setback distance between the proposed tower and the nearest residential unit platted residentially zoned properties and unit platted residentially zoned properties.
  - (c) The separation distance from other towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Town, or within one mile of the border thereof, including specific information about the location, height, and design of each tower.
  - (d) Landscape plan showing specific plant materials.
  - (e) Method of fencing, including location, materials and finished color and, if applicable, vegetative screening.
  - (f) Description of compliance with Chapter 4, Fences.

6. General Requirements In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna:
- (a) Building Codes: Safety Standards. to ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - (b) State or Federal Requirements. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - (c) Collocation. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varied heights.
  - (d) Height. Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FFA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
  - (e) Setbacks. A tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.
  - (f) Separation Between Land Uses. Tower separation shall be measured from the base of the tower to the lot line of the off-site use and/or designated area as specified herein. The minimum separation distance shall be 200 feet or 300% of the height of the tower, whichever is greater.
  - (g) Aesthetics. Towers shall maintain galvanized steel finish, or subject to any applicable standards of the FAA, be painted as a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (h) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
  - (i) Lighting. Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.



- (j) Fencing. A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.
- (k) Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived- existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- (l) Appurtenant Equipment and Buildings. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.  
Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

#### 7. Permitted Uses.

- (a) Antennas or Towers On Existing Structures: An antenna or tower may be situated on the roof of a residential, commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
- (b) Antennas On Existing Towers: The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that
  - (1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole;
  - (2) An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower;
  - (3) After a tower is rebuilt to accommodate collocation, only one tower may remain on the site; and
  - (4) The on-site relocation of a tower which comes within the separation distances to residentially zoned lands shall only be permitted when approved by the town.
- (c) Cable Microcell Network: The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireless systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

8. Special Uses. The installation of towers and antennas, including the placement of appurtenant equipment or buildings, may be allowed only by special use permit and only in non-residential zoning districts. An application for a special use permit shall be subject to the procedures and requirements of Sections 11.0. In addition, a special use permit proposal shall include plans, specifications and other pertinent information and materials to demonstrate compliance with this ordinance.

## General Provisions

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13-2-9

9. Removal of Abandoned Antennas and Towers. An antenna or tower that is not operation for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
10. Nonconforming Uses.
- (a) Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
11. Wireless Telecommunications Towers and Antennas.
- (a) Separation Between Towers. Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

New Tower Type	Existing Tower Type			
	Lattice	Guyed	Monopole 75ft in Height or Greater	Monopole Less than 75ft in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole 75ft in Height or Greater	1500	1500	1500	750
Monopole Less than 75ft in Height	750	750	750	750

- (b) Tower Height: The following criteria shall apply in determining the maximum height of a tower:
1. For a single user, up to 90 feet.
  2. For two users, up to 120 feet.
  3. For three or more users, up to 195 feet.
- (c) Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the Town to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- 1.No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
  - 2.Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - 3.Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fee's, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

### **Sec. 13-2-10 Parking and Loading Area Requirements**

In addition-to the parking and loading area standards established for the respective zoning districts, the following requirements shall apply:

1. Upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.
2. All theaters, arenas, auditoriums, churches or other places of public gathering hereafter erected shall provide an accessible parking space a minimum of 180 square feet in area for every five seats provided.

### **Sec. 13-2-11 Reimbursement of Town Fees and Costs**

The applicant for a rezoning, a variance or a conditional use permit is responsible to reimburse the Town for its reasonable attorneys' fees, engineering fees, and other consultant fees incurred by the Town as follows:

1. To review petitions or applications submitted under this ordinance;
2. To administer the terms of any permit issued under this ordinance; or
3. To enforce the terms of this ordinance.

Approvals for rezoning, variances or conditional use permits shall not take effect until and unless the Town has been reimbursed in full. The reimbursements required by this subsection are in addition to publication costs and hearing fees.