

Section 17

WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS REGULATIONS¹

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17.1 **PURPOSE:**

- A. The purpose of this Section 17 is to provide specific regulations for the placement, construction and modification of personal wireless service facilities. The provisions of this Section 17 are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Section 17 be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this Section 17 are inconsistent with or in conflict with any other provision of the Village Code or any ordinance of the Village, the provisions of this Section 17 shall be deemed to control.
- B. In the course of reviewing any request for any approval required under this Section 17 made by an applicant to provide personal wireless services or to install personal wireless service facilities, the Village shall act within a reasonable period of time after the request is duly filed with the Village, taking into account the nature and scope of the request. Any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.
- C. The purpose of this Section 17 is to also establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Section 17 are to:
 - 1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - 2. Encourage the location of towers in non-residential areas;
 - 3. Minimize the total number of towers throughout the community;
 - 4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-users towers;

¹ Established by Ordinance 2000-43, 7/11/00

5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. 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;
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
8. Consider the public health and safety of communication towers; and
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, the Village shall give due consideration to the Village's comprehensive land use plan, zoning map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas.

17.2 DEFINITIONS:

As used in this Section 17 the following terms shall have the meanings set forth below:

Alternative tower structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

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, wireless telecommunications signals or other communication signals including but not limited to radar.

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.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Height: When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and preexisting 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 Section 17, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting towers (excluding lattice-type towers), and 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. The term "tower" also includes any antenna.

17.3 APPLICABILITY:

- A. New Towers and Antennas: All new towers or antennas in the Village shall be subject to these regulations, except as provided in Sections 17.3-B through 17.3-D, inclusive.
- B. Amateur Radio Station Operators/Receive Only Antennas: This Section 17 shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. However, such towers, installations and antennas, as the case may be, remain subject to the remainder of this Zoning Code.
- C. Pre-existing Towers or Antennas: Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this Section 17 other than the requirements of Sections 17.4-F and 17.4-G and the remainder of this Zoning Code.
- D. AM Array: For purposes of implementing this Section 17, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

17.4 GENERAL REQUIREMENTS:

- A. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. Lot Size: For purposes of determining whether the installation of a tower or antenna complies with the zoning district regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

- C. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the Village Manager an inventory of its existing towers, antennas and associated support equipment buildings, as well as sites approved for towers or antennas, that are either within the jurisdiction of the Village or within one mile of the border thereof, including specific information about the location, height and design of each tower. The Village Manager may share such information with other applicants applying for special use permits under this Section 17 or other organizations seeking to locate antennas within the jurisdiction of the Village, provided, however that the Village Manager is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics: Towers and antennas shall meet the following requirements:
1. Towers shall be subject to any applicable standards of the FAA, be painted a neutral or sky-blue color, which shall be approved by the Village, so as to reduce visual obtrusiveness.
 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a 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.
 4. Barbed or razor wire shall not be permitted on fences, buildings, or structures relating to towers or antennas.
 5. Lattice-type towers are prohibited.
 6. Any freestanding tower must be a monopole-type tower.
- E. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- F. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the 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 owners of the towers and antennas governed by this Section 17 shall bring such towers and antennas into compliance with such revised standards and regulations within six 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, and revocation of the special use permit.

- G. Building Codes; Safety Standards: To ensure the structural integrity of towers and antennas, the owner of a tower or antenna shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers or antennas, as the case may be, that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower or antenna, as the case may be, the owner shall have 30 days to bring such tower or antenna into compliance with such standards. Failure to bring such tower or antenna into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- H. Measurement: For purposes of measurement, tower setbacks and separation distances shall be calculated and applied irrespective of municipal and county jurisdictional boundaries.
- I. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this Section 17 and shall not be regulated, considered, or permitted as essential services, public utilities or private utilities.
- J. Franchises: Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained and shall file a copy of all required franchises with the Village Manager.
- K. Public Notice: For purposes of this Section 17, any special use or variance request shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 17.5-B-5-ii, Table 2, in addition to any notice otherwise required by this Zoning Code.
- L. Signs: Advertising or identification signs shall not be allowed on an antenna or tower, except as required by FCC regulations. Village logos are permitted, however.
- M. Buildings and Support Equipment: Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 17.6. In addition, any such buildings and support equipment associated with antennas or towers shall comply with Chapter 19 of the Lakewood Municipal Code regarding architectural review and shall be compatible with existing adjacent structures.
- N. Multiple Antenna/Tower Plan: The users of towers and antennas are encouraged to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

17.5 SPECIAL USE PERMITS: *Amended, 2017-24, 05-05*

A. General: The following provisions shall govern the issuance of special use permits for towers or antennas:

1. A special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
2. Applications for special use permits under this Section 17.5 shall be subject to the procedures and requirements set forth herein as well as Section 15 of the Zoning Code.
3. In its recommending a special use permit, the Planning and Zoning Commission may impose conditions to the extent the Planning and Zoning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
4. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
5. An applicant for a special use permit shall submit the information described in this Section 17.5 and a non-refundable application fee as established by Chapter 20 of the Lakewood Municipal Code.

B. Towers:

1. Information Required: In addition to any information required for applications for special use permits pursuant to Section 17.5 herein, applicants for a special use permit for a tower shall submit the following information:
 - (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive land use plan classification of the site and all properties within the applicable separation distances set forth in Section 17.5-B-5, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Village to be necessary to assess compliance with this Section 17.
 - (ii) Legal description of the parent tract and leased parcel (if applicable).

- (iii) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- (iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 17.4-C shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (v) A landscape plan showing specific landscape materials in accordance with the provisions of Chapter 21 of the Lakewood Municipal Code.
- (vi) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- (vii) A notarized statement signed by the applicant describing their compliance with Sections 17.4-C, D, E, F, G, J, L and M, Section 17.5-B-4, Section 17.5-B-5 and all applicable federal, state or local laws.
- (viii) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
- (ix) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village.
- (x) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (xi) A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (xii) Detailed plans and specifications for any structures intended to house equipment of the applicant to be located on the parent tract and leased parcel, if applicable.
- (xiii) A rendition depicting the tower, drawn to scale, from the perspective of the nearest residential building.

2. Factors Considered in Granting Special Use Permits for Towers: In addition to any standards for consideration of special use permit applications pursuant to Section 17.5 of this Code, the Planning and Zoning Commission shall consider the following factors in addition to those set forth in Section 15 of the Zoning Code:
 - (i) Height of the proposed tower;
 - (ii) Proximity of the tower to residential structures and residential district boundaries;
 - (iii) Nature of uses on adjacent and nearby properties;
 - (iv) Surrounding topography;
 - (v) Surrounding tree coverage and foliage;
 - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (vii) Proposed ingress and egress;
 - (viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 17.5-B-3 herein;
 - (ix) The applicant's need for the tower or other structures to be sited on the proposed location; and
 - (x) Other reasons as the Village finds desirable or necessary based on the surroundings and the circumstances.

3. 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 Planning and Zoning Commission 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. An applicant shall submit information requested by the Planning and Zoning Commission or Village Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

- (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or with other electronic or communications signals, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (v) The fees, 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.
 - (vi) 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.
4. Setbacks: The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Village Board may reduce the standard setback requirements if the goals of this Section 17 would be better served thereby:
- (i) Towers must be set back a distance equal to at least 100 percent of the height of the tower from any adjoining lot line.
 - (ii) Guys and accessory buildings or structures must satisfy the minimum zoning district setback requirements.
5. Separation: The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Village Board may reduce the standard separation requirements if the goals of this Section 17 would be better served thereby:
- (i) Separation from off-site uses/designated areas:

- (a) Tower/antenna separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
- (b) Separation requirements for towers/antennas shall comply with the minimum standards established in Table 1.

TABLE 1	
Off-Site Use/Designated Area	Separation Distance
Attached and detached single-family residential units	200 feet or 300 percent height of tower/antenna, whichever is greater
Vacant single-family attached and detached, residentially zoned land which is either platted or has preliminary subdivision plat approval which is not expired	200 feet or 300 percent height of tower ¹ /antenna, whichever is greater
Vacant unplatted residential zoned lands ²	100 feet or 100 percent height of tower/antenna, whichever is greater
Existing multiple-family residential units greater than two units	100 feet or 100 percent height of tower/antenna, whichever is greater
Non-residential zoned lands or non-residential uses	None; only setbacks apply

¹Separation measured from base of tower/antenna to closest building setback line.

²Includes any unplatted residential use properties without a valid preliminary subdivision plat or valid development plan approval and any multi-family residentially zoned land greater than two units.

- (ii) Separation Distances Between Towers: Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

TABLE 2 Existing Towers - Types		
	Monopole 75 feet in height or greater	Monopole less than 75 feet in height
Monopole 75 feet in height or greater	1,500	750
Monopole less than 75 feet in height	750	750

6. Security Fencing: Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device excluding barbed or razor wire fencing. Such fencing must otherwise satisfy those standards set forth in Section 5.12 of this Code.
7. Landscaping: The following requirements shall govern the landscaping surrounding towers for which a special use permit is required. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible, which shall be taken into account in the review and approval of the required landscaping plan in accordance with the provisions of Chapter 21 of the Lakewood Municipal Code.

17.6 EQUIPMENT STORAGE BUILDINGS OR OTHER STRUCTURES:

- A. Antennas Mounted on Structures or Rooftops: The equipment cabinet or structure used in association with antennas shall comply with the following:
 1. The cabinet or structure shall not contain more than 300 square feet of gross floor area or be more than 15 feet in height. In addition, for antennas mounted on buildings and other structures which are less than 65 feet in height, the related unmanned equipment structure, if over 150 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 150 square feet or 20 percent of the roof area.
 3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles: The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential zoning districts, the equipment cabinet or structure may be located:

(a) In a side yard, provided the cabinet or structure is no greater than four feet in height or 24 square feet of gross floor area and the cabinet/structure is located a minimum of six feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.

(b) In a rear yard, provided the cabinet or structure is no greater than six feet in height or 24 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

2. In business or industrial zoning districts, the equipment cabinet or structure may be located in a side or rear yard and shall be no greater than six feet in height or 64 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet in height or an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

C. Antennas Located on Towers: The related unmanned equipment structure shall not contain more than 300 square feet of gross floor area or be more than 15 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

D. Modification of Building Size Requirements: The requirements of Sections 17.6-A through 17.6-C may be modified by the Village Board upon recommendation of the Planning and Zoning Commission in order to encourage co-location.

17.7 REMOVAL OF ABANDONED ANTENNAS AND TOWERS:

Any antenna or tower that is not operated 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 Village notifying the owner of such abandonment. Any antenna situated upon a tower that is not operated for a continuous period of 12 months shall be removed from such tower by the owner within 90 days of receipt of notice from the Village 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.

17.8 NONCONFORMING USES:

- A. Not Expansion of Nonconforming Use: Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Section 17 shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Pre-existing Towers: Pre-existing 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 pre-existing tower shall comply with the requirements of this Section 17.
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Towers or antennas that are damaged or destroyed, whether conforming or nonconforming, shall be rebuilt in accordance with the standards and requirements of this Section 17 within 180 days from the time such tower or antennas was damaged or destroyed as the case may be.