

FRIDLEY CITY CODE
SECTION 205.30. O-5 TELECOMMUNICATIONS TOWERS
AND FACILITIES DISTRICT

(Ref Ords 1112, 1114, 1117, 1136, 1302, 1340, 1347, 1350)

205.30.1. PURPOSE AND INTENT

The general purpose of this Section is to create an overlay zone to regulate the placement, construction, and modification of towers and wireless telecommunications facilities as well as regulate placement, construction and operation of distributed antenna systems in the public right-of-way in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City.

Specifically, the purposes of this Section are:

- A. To protect residential areas and land uses from potential adverse impact of towers and wireless telecommunications facilities;
- B. To minimize adverse visual impact of towers and wireless telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- C. To promote and encourage shared use/collection of towers and existing antenna support structures as a primary option rather than construction of additional single-use Towers in order to minimize the adverse visual impact of towers and wireless telecommunications Facilities;
- D. To avoid potential damage to property caused by towers and wireless telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, located, and removed when no longer used or determined to be structurally unsound;
- E. To ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses;
- F. To facilitate the provision of wireless telecommunications services to the residents and businesses of the City in a streamlined, orderly, and efficient fashion;
- G. To encourage the location of towers in industrial and business districts, rather than residential areas;
- H. To enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- I. To identify specific sites within the City where wireless telecommunications facilities may be located.

- J. To serve the growing demand for telecommunications services through placement of distributed antenna systems (DAS) in the public right-of-way.

205.30.2. DEFINITIONS

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning;

“Antenna Support Structure” means any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.

“Applicant” means any Person that applies for a permit for wireless telecommunication facilities or towers, automatic meter reading devices or small wireless facilities. (Ref Ord 1350)

“Application” means the process by which a person submits a request to develop, construct, build, modify, or erect wireless telecommunication facilities or a tower upon land within the City, develop, construct, build, modify, or erect an automatic meter reading system within the City; or develop, construct, build, modify, or erect small wireless facilities within the public right-of-way. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request. (Ord 1350)

“Approved Site” means a site which has been approved by the City Council as an eligible location for placement of wireless communication facilities.

“Automatic Meter Reading device” means a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications commission, including any antenna attached to such device and excluding devices reading and transmitting data from a single utility meter.

“Automatic Meter Reading system” means a series of devices which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device.

“City” means the City of Fridley, Minnesota.

“Collocate” or “Collocation” means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within or adjacent to an existing wireless support structure that is owned privately or by a local government.

“Electrical Engineer” means an electrical engineer licensed by the State of Minnesota.

“Existing Site” means a tower or antenna support structure installed or erected prior to December 18, 1997, and which is not located on an approved site.

“Micro Wireless Facility” means a small wireless facility that is no larger than twenty-four (24) inches long, fifteen (15) inches wide, and twelve (12) inches high, and whose exterior antenna, if any, is no longer than eleven (11) inches.

“Local Government Unit” means a county, home rule charter or statutory city, town, or the Metropolitan Council.

“Owner” means any Person with fee simple title to any approved site, existing site, site approved by special use permit, or wireless telecommunications facility.

“Pad Mount Device” means a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device like the automatic meter reading device, but, which is installed on its own pedestal and not on an existing public utility structure.

“Person” is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

“Satellite Earth Station Antenna” is all equipment necessary for processing of traffic received from terrestrial distributions prior to transmission via satellite and of traffic received from the satellite prior to transfer of channels of communication to terrestrial distribution systems.

“Small wireless facility” means (1) a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six (6) cubic feet; and (ii) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, batter backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than twenty-eight (28) cubic feet in volume; or (2) a micro wireless facility.

“State” means the State of Minnesota.

“Structural Engineer” means a structural engineer licensed by the State of Minnesota.

“Telecommunications Right-of-Way User” means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. A cable communication system defined and regulated under Minn. Stat. Chapter 238, and telecommunications activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. §216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chapters 453 or 453A, or a cooperative electric association organized under Minn. Stat. Chapter 308A, are not telecommunications right-of-way users for the purposes of this Chapter and Minn. Stat. §237.163, except to the extent these entities are offering wireless services.

“*Toll*” means to stop the running of a relevant time period, such as a review period.

“*Tower*” Means a self-supporting monopole structure constructed from grade which supports wireless telecommunications facilities. The term “tower” shall not include amateur radio operator’s equipment as licensed by the FCC. Lattice or guyed structures are prohibited.

“*Utility Pole*” means a pole that is used in whole or in part to facilitate telecommunications or electric service.

“*Wireless Backhaul Facility*” means a facility used to transport communications data by wire from a wireless facility to a communications network.

“*Wireless Facility*” means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including: (1) equipment associated with wireless service; (2) a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and (3) a small wireless facility. “Wireless facility” does not include the following: wireless support structures, wireless backhaul facilities; or coaxial or fiber-optic cables between utility poles or wireless support structures or that are not otherwise immediately adjacent to or directly associated with a specific antenna.

“*Wireless Service*” means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, title 47, section 522, clause (6).

“*Wireless Support Structure*” means a new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by a local government unit.

“*Wireless Telecommunications Facilities*” means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications (other than radio or television broadcast communications) which a person seeks to locate or have installed upon or near a tower or an antenna support structure. However, the term wireless telecommunications facilities shall not include:

- A. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;
- B. Any satellite earth station reception antenna one meter or less in diameter, regardless of zoning category;
- C. Automatic meter reading systems; and
- D. Small wireless facilities.

205.30.3. NON-CONFORMING USES

- A. Existing sites shall be considered a legal non-confirming use, unless otherwise provided for in this Chapter.
- B. Installation of additional wireless telecommunications facilities beyond those in existence on December 18, 1997, on existing sites is prohibited. Failure to comply with this provision will be considered a violation of this Chapter and subject to the penalties described herein. Routine maintenance of wireless telecommunications facilities on Existing Sites is permitted, except that existing sites and any wireless telecommunications facilities installed on existing sites may not increase in size, height, weight, or otherwise result in an increase in the intensity of the non-conforming use.
- C. If any wireless telecommunications facilities in an existing site are abandoned for a period of one year, such existing site shall lose its legal conforming status and shall be considered an illegal nonconforming use. The abandoned wireless telecommunications facilities shall not be re-established on the site, and must be removed within twelve (12) months of the cessation of operations. If not removed, the city may remove the facility and assess the costs of removal against the Owner(s), according to the procedures established in Chapter 128 of the City Code.

205.30.4. DISTRICT BOUNDARIES FOR OVERLAY ZONE

A Telecommunications Towers and Facilities District, 0-5, is created and shall apply to all land within the City subject to the provisions and use requirements contained in this Section.

205.30.5. USES PERMITTED

- A. The construction of towers and the installation, operation and maintenance of wireless telecommunications facilities shall be permitted use in the approved sites identified on Appendix A to this Ordinance, subject to the provisions of this Chapter. Additional approved sites may be approved by the City Council, subject to the amendment procedures set forth in Section 205.05.04 of the City code, and the requirements of this section.
- B. All principal, special use, and accessory uses allowed in each underlying primary zoning district are permitted in the telecommunications towers and facilities district, except that no towers shall be constructed, and no wireless telecommunications facilities shall be placed on towers or antenna support structures, except as provided for in this Chapter.
- C. Special Uses. The construction of towers and the installation, operation, and maintenance of wireless telecommunications facilities shall be a special use in Zoning districts M-1, M-2, M-3, and M-4, and any abutting railroad rights-of-way.
- D. Automatic Meter Reading System Performance Standards. All automatic meter reading systems must meet the following performance standards:

- (1) All automatic meter reading devices located in the public right-of-way, must obtain an automatic meter reading device permit and pay the appropriate permit fee, as provided for in Chapter 407 and Chapter 11 of the City Code. This permit requirement does not apply to individual meters or mobile automatic reading devices.
 - (2) Mapping information for the site(s) must be provided with the automatic meter reading device permit application in a format compatible to be utilized by the City of Fridley's Geographic Information System (GIS).
 - (3) All automatic meter reading device(s) must be located no higher than the top of a public utility structure and no closer to grade than fifteen (15) feet.
 - (4) Automatic meter reading devices not installed on a public utility structure will be considered as pad mount design. Its location shall be subject to review and approval of the City prior to automatic meter reading device permit application.
 - (5) All automatic meter reading devices must be the same color as the public utility structure on which they are located or as approved by City Staff.
- E. Small Wireless Facilities in the Public Right of Way Performance Standards in Underlying Non-Residential Districts. All small wireless facility operators and small wireless facilities are permitted uses in all non-residential underlying zoning districts within the public right-of-way and shall meet the following criteria and performance standards:
- (1) The small wireless facility shall only be located on a utility pole or wireless support structure, excluding stop lights.
 - a. The utility pole or wireless support structure accommodating the small wireless facility shall not exceed fifty (50) feet in height.
 - (2) The City may prohibit small wireless facility attachment to decorative public utility structures.
 - (3) There shall be no interference with public safety communication or with the original use of the utility pole.
 - (4) The small wireless facility shall not block light emanating from the utility pole.
 - (5) If the small wireless facility is to be attached to a City-owned utility pole or wireless support structure, the applicant shall pay a rental fee to the City pursuant to the City's standard Collocation Agreement.
 - (6) The small wireless facility shall, to the greatest extent possible match the utility pole or wireless support structure in color, material and design and the small wireless facility design shall, to the greatest extent possible minimize exposed cables, wires and other attachment hardware.

- (7) The small wireless facility shall not extend above the top of the existing utility pole by more than ten (10) feet and the maximum height of the existing utility pole or wireless support structure shall be fifty (50) feet.
- (8) The small wireless facility shall be no larger than six (6) cubic feet.
- (9) The small wireless facility shall not extend outward from the utility structure by more than three (3) feet.
- (10) Unless otherwise agreed in a franchise or other agreement between the right-of-way user and the city, small wireless facilities in the right-of-way must be located or relocated and maintained underground in accordance and compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.
- (11) The small wireless facility applicant shall provide evidence that the utility pole or wireless support structure has adequate structural capacity to carry the additional equipment proposed.
- (12) The small wireless facility applicant must agree that the small wireless facility or any component of the small wireless facility equipment shall be removed and relocated in compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management, if the City or road authority for the public right-of-way in which it is located requires removal or and relocation of the utility pole for a public project.
- (13) The small wireless facility applicant shall submit in writing to the City, written approval from the utility pole or wireless support structure owner, if not the City, for which the small wireless facility will be attached to.
- (14) The small wireless facility applicant shall obtain any and all permits and approvals from road authority for the public right-of-way in which its small wireless facility is located.
- (15) The small wireless facility applicant must be a telecommunications right-of-way user as defined in Minn. Stat. § 237.162, Subd. 4.
- (16) The small wireless facility applicant shall obtain a right-of-way permit from the City's engineering department and comply with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.
- (17) A small wireless structure shall be at least nine hundred (900) feet in distance from any other small wireless structure.
- (18) All small wireless structures and small wireless facilities shall be installed two (2) feet from the edge of any trail, sidewalk, or pedestrian way so as not to obstruct or impede the trail, sidewalk or pedestrian way.

(19) The small wireless facility shall be at least twelve (12) feet above the ground.

(20) The small wireless facility applicant shall comply with all applicable local, state, and federal ordinances, statutes and regulations.

F. Small Wireless Facility Performance Standards in the Public Right of Way in Underlying Residential Districts. All small wireless facility operators and small wireless facilities are special uses in all underlying residential districts within the public right-of-way and shall meet the following criteria and performance standards:

(1) The small wireless facility shall only be located on a utility pole or wireless support structure, excluding stop lights.

a. The utility pole or wireless support structure accommodating the small wireless facility shall not exceed fifty (50) feet in height.

(2) The City may prohibit small wireless facility attachment to decorative public utility structures.

(3) There shall be no interference with public safety communication or with the original use of the utility pole.

(4) The small wireless facility shall not block light emanating from the utility pole.

(5) If the small wireless facility is to be attached to a City-owned utility pole or wireless support structure, the applicant shall pay a rental fee to the City pursuant to the City's standard Collocation Agreement.

(6) The small wireless facility shall, to the greatest extent possible match the utility pole or wireless support structure in color, material and design and the small wireless facility design shall, to the greatest extent possible minimize exposed cables, wires and other attachment hardware.

(7) The small wireless facility shall not extend above the top of the existing utility pole by more than ten (10) feet and the maximum height of the utility pole or wireless support structure shall be fifty (50) feet.

(8) The small wireless facility shall be no larger than six (6) cubic feet.

(9) The small wireless facility shall not extend outward from the utility structure by more than three (3) feet.

(10) Unless otherwise agreed in a franchise or other agreement between the right-of-way user and the city, small wireless facilities in the right-of-way must be located or relocated and maintained underground in accordance and compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.

- (11) The small wireless facility applicant shall provide evidence that the utility pole or wireless support structure has adequate structural capacity to carry the additional equipment proposed.
- (12) The small wireless facility applicant must agree that the small wireless facility or any component of the small wireless facility equipment shall be removed and relocated in compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management, if the City or road authority for the public right-of-way in which it is located requires removal or and relocation of the utility pole for a public project.
- (13) The small wireless facility applicant shall submit in writing to the City, written approval from the utility pole or wireless support structure owner, if not the City, for which the small wireless facility will be attached to.
- (14) The small wireless facility applicant shall obtain any and all permits and approvals from road authority for the public right-of-way in which its small wireless facility is located.
- (15) The small wireless facility applicant must be a telecommunications right-of-way user as defined in Minn. Stat. § 237.162, Subd. 4.
- (16) The small wireless facility applicant shall obtain a right-of-way permit from the City's engineering department and comply with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.
- (17) A small wireless structure shall be at least nine hundred (900) feet in distance from any other small wireless structure.
- (18) All small wireless structures and small wireless facilities shall be installed two (2) feet from the edge of any trail, sidewalk, or pedestrian way so as not to obstruct or impede the trail, sidewalk or pedestrian way.
- (19) The small wireless facility shall be at least twelve (12) feet above the ground.
- (20) The small wireless facility shall be installed at the residential lot's corner in the right of way.
- (21) The small wireless facility applicant shall comply with all applicable local, state, and federal ordinances, statutes and regulations.

205.30.6. CRITERIA FOR ADDING APPROVED SITES TO APPENDIX A

Additional approved sites, other than those provided in Appendix A to this Ordinance, shall be approved by the City Council according to the amendment procedures of Section 205.05.04 of the City code. The criteria used to determine whether a site shall be designated as an approved site shall include, but not be limited to, the following requirements:

- A. Whether the proposed new site is capable of being developed to support more than two operating wireless telecommunications facilities comparable to the others in weight, size, and surface area.
- B. Whether the proposed new site poses a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals; and
- C. Whether the proposed new site is necessary and that useable approved sites are not located within a one-half (1/2) mile radius of the proposed new site; and
- D. Whether all foreseeable telecommunications uses of the proposed site could comply with any separation and buffer requirements of the underlying zoning district;
- E. Whether all foreseeable telecommunications uses of the proposed new site could comply with the setback requirements of the underlying zoning district; and
- F. Whether the proposed site is accessible for service vehicles;
- G. If applicable, whether the proposed site has been designed and certified by a structural engineer to be structurally sound and, at minimum, in conformance with the Building and Electric Codes adopted by the City, the National Electric Safety Code, and any other standards and requirements outlined in this Section.
- H. If applicable, whether the approved site complies with all applicable Federal Aviation Administration lighting and painting regulations.
- I. Whether the proposed site will further the City's objective that all towers, antenna support structures, and wireless telecommunications facilities be designed to blend into the surrounding environment.
- J. Whether the proposed site has adequate open space to allow wireless telecommunications facilities to be installed without detrimentally impacting landscape, displacing parking, or impeding sight lines of a current or future principal use.
- K. Whether the proposed site adequately contributed to the City's overall effort to adequately meet the needs of the wireless telecommunications industry.
- L. Whether the proposed site has amenities such as trees that will allow screening and sight line relief. If no, whether the combination of site size and other site features help to provide sight line relief.
- M. Whether there are other structures near the proposed site that can serve as visual distractions such as high power transmission structures, highway shoring, billboards.
- N. Whether there are existing buildings or natural topographic features that meet the height requirements of wireless telecommunications facilities without a tower structure, or which allow for a lower overall height of any necessary Tower.

- O. Whether there is adequate space on the proposed site so that the base of any necessary Tower can accommodate essential equipment.
- P. Whether the proposed site is outside of any underlying residential zoning districts.
- Q. Whether housed equipment can be placed on top or on the side of a structure that currently exists in the proposed site.

205.30.7. APPLICATION FOR PLACEMENT OF TOWERS OR WIRELESS TELECOMMUNICATIONS FACILITIES ON APPROVED SITES IN THE CITY.

- A. All persons seeking to install, operate and maintain towers wireless telecommunications facilities in approved sites in the city must file a telecommunication site permit application with the City which shall include:
 - (1) The names, address, and telephone number of the Applicant; and
 - (2) Written, technical evidence from a qualified and licensed structural engineer that the proposed tower or antenna support structure is capable of supporting the equipment necessary to install, operate, and maintain the proposed antenna. The engineer shall also certify the capability of the tower to provide adequate structural support considering existing or other proposed antenna installations. The engineer shall also assess and state the design safety margin of the entire antenna support system. The engineer shall state that within the limits of engineering certainty, if the structure would fall or collapse for any reason or due to any event, the structure will be completely contained within the area identified; and
 - (3) If proposed on a City-owned site, a completed application form for lease approval as provided by the City; and
 - (4) A report from a qualified and licensed professional engineer which described the height and design of the proposed wireless telecommunications facility including a cross-section and elevation; and
 - (5) A scalable site plan drawn at an engineering scale showing the location of the wireless telecommunications facility in relation to surrounding structures; and
 - (6) If located on a water tower, a written report addressing the requirements contained herein for water towers; and
 - (7) Foundation, cross-section, and building plans for installation of the wireless telecommunications facility; and
 - (8) An application fee as required by Chapter 11; and

- (9) The application shall also contain an affirmative statement indicating that the applicant agrees to comply with the provisions in Section 205.30.25. regarding abandonment; and
 - (10) No new or existing wireless telecommunications service will interfere with public safety telecommunications. Before the introduction of new service or before implementing any change in existing service, all wireless telecommunications service providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process; and
 - (11) Application for a building permit from the City pursuant to Chapter 206 of the code; and
 - (12) A statement as to whether the proposed development of an approved Site is capable of being developed to support more than two (2) operating wireless telecommunications facilities comparable to the others in weight, size, and surface area; and
 - (13) Written, technical evidence from an independent consulting engineer licensed to practice geological engineering in the State of Minnesota confirming that the soil at the location of the tower or wireless telecommunication facility is capable of supporting the proposed antenna arrays, equipment, and personnel performing typical work functions; and
 - (14) A landscaping plan showing location of materials, height at planting, types of materials, and installation practices.
- B. All persons seeking to install, operate, and maintain towers or wireless telecommunications facilities in M-1, M-2, M-3, or M-4 Zoning Districts as a special use permit shall submit the information required in 205.30.07.A, except items (3) and (11).

205.30.8. APPLICATION FOR AN AUTOMATIC METER READING DEVICE IN THE CITY

All persons seeking to install, operate and maintain automatic meter reading systems in the City must file an application with the City, which shall include:

- A. The name, address and telephone number of the applicant and property owner; and
- B. Written, technical evidence from a qualified Structural Engineer that the integrity of the structure on which a proposed automatic reading device(s) will be attached and the attachment device itself will not jeopardize the structural integrity of the public utility structure; and
- C. A location plan matching the public utility structure identification (address) and the appropriate automatic meter reading device; and
- D. An individual automatic meter reading device permit fee as required by Chapter 11; and

- E. The application shall contain an affirmative statement indicating that the applicant agrees to comply with the provisions in section 205.30.25. regarding abandonment; and
- F. No automatic meter reading system will interfere with public safety telecommunications. Before the introduction of new service or before implementing any change in existing service, all automatic meter reading system operators shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

205.30.9. APPLICATION FOR PLACEMENT OF SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

- A. All persons seeking to install, operate and maintain small wireless facilities within the right-of-way within the City must file a right-of-way permit application with the City that, in addition to any other requirements set forth in City Code Chapter 407, includes:
 - (1) The names, address, and telephone number of the right-of-way permit applicant; and
 - (2) Written technical evidence from a qualified and licensed structural engineer that the proposed small wireless facilities utility pole or wireless support structure is capable of supporting the equipment necessary to install, operate and maintain the small wireless facility. The engineer shall also certify the capability of the utility pole or wireless support structure to provide the adequate support needed considering the existing or other proposed equipment installations. The engineer shall also assess and state the design safety margin of the entire utility pole or wireless support structure and small wireless facility. The engineer shall state that within the limits of engineering certainty, if the utility pole or wireless support structure would fall or collapse for any reason due to any event, the utility pole or wireless support structure will be completely contained within the area identified; and
 - (3) A completed right-of-way permit application form as provided by the City; and
 - (4) A report from a qualified and licensed professional engineer which described the height and design of the proposed small cell wireless facility including a cross-section and elevation; and
 - (5) A scalable site plan drawn at an engineering scale showing the location of the small wireless facility in relation to the surrounding structures; and
 - (6) Foundation, cross-section, and building plans for installation of the small wireless facility; and
 - (7) A right-of-way application and fee as required by Chapter 11; and
 - (8) A building permit application and fee pursuant to Chapter 206;
 - (9) An escrow fee as set forth in Chapter 11 to be held and utilized in the event the small wireless facility is abandoned without removal by the applicant and

- (10) The right-of-way application shall contain an affirmative statement indicating that the applicant agrees to comply with the provisions of 205.30.5.E for small wireless facility performance standards and 206.30.25 for abandonment.
- (11) Written, technical evidence from an independent consulting engineer licensed to practice geological engineering in the State of Minnesota confirming that the soil at the location of the small wireless facility is capable of supporting the utility pole or wireless support structure to which the small wireless facility will be attached.
- (12) Documentation that the small wireless facility applicant has applied for and obtained any licenses and approvals that are required by federal and state agencies.

B. Action on Small Wireless Facility Permit Applications.

- (1) Approval or Denial. The city shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
 - a. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:
 - i. Are located within a two (2) mile radius;
 - ii. Consist of substantially similar equipment; and
 - iii. Are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities sites and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

- b. Tolling of Deadline. The ninety (90) day deadline for action on a small wireless facility permit application may be tolled if:
 - i. The city receives applications from one or more applicants seeking approval of permits for more than thirty (30) small wireless facilities within a seven (7) day period. In such case, the city may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.
 - ii. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within thirty (30) days of receipt of the application. Upon submission of additional documents or information, the city shall have ten (10) days to notify the applicant in writing of any missing information.

- iii. The city and a small wireless facility applicant agree in writing to toll the review period.
- (2) **Scope of Approval.** An approval of a small wireless facility permit under this section authorizes the installation, placement, maintenance, or operation of a small wireless facility to provide wireless service and shall not be construed to confer authorization to (1) provide any service other than a wireless service, or (2) install, place, maintain, or operate a wireline backhaul facility in the right-of-way.
 - (3) **Denial.** Any denial of a right-of-way or small wireless facility permit must be made in writing and must document the basis for the denial. The city must notify the applicant in writing within three (3) business days of the decision to deny the permit. If a permit application is denied, the applicant may cure the deficiencies identified by the city and resubmit its application. If applicant user resubmits the application within thirty (30) days of receiving written notice of the denial, no additional filing or processing fee shall be imposed. The city must approve or deny the revised application within thirty (30) days after the revised application is submitted.

205.30.10. APPLICATION PROCESS

- A. Upon submission of an application on an approved site, for an antenna meter reading system, or small wireless facility, the City shall notify the applicant in writing to confirm if the application is complete addressing all of the requirements as required by this Section. If the application is incomplete, the letter will specify what information is missing and the applicant must then submit a new application. If an application is submitted on an approved site which is owned by the City, a lease agreement must be approved by the City Council. The City shall comply with the time deadlines for agency action as dictated in Minnesota State Statutes. Construction or installation on approved sites may begin upon approval of the lease agreement, if necessary, and issuance of a building permit. Construction or installation on an automated meter reading system or small wireless facility may begin upon approval of the application and issuance of any required permits and execution of any required Collocation Agreement.
- B. If a small wireless facility, tower or wireless telecommunications facility is approved by a special use permit, the applicant must also apply for and receive a building permit.

205.30.11. TOWER HEIGHT

Tower height shall be measured from the average adjoining grade to the highest point of construction of any tower or wireless telecommunications facilities. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred twenty-five (125) feet. An additional twenty-five (25) feet of tower height shall be permitted for a total height of one hundred fifty (150) feet, if all of the following criteria can be met:

- A. The tower exists within a lineal dimension of two hundred fifty (250) feet of any one of the following structures that exceed the height of one hundred fifty (150) feet. These structures include: buildings, power lines, and train/rail yard fixtures such as light fixtures,
- B. Tower can meet or exceed any local, state, or federal regulations relative to tower fall distance.
- C. All permits required to replace or expand an existing tower be reviewed and approved by the City prior to alteration.

205.30.12. STEALTH DESIGN AND EXTERIOR FINISHES

All approved sites, towers, and wireless telecommunications, and small wireless facilities shall be designed to blend into the surrounding environment. Monopoles with antenna arrays shall be finished so as to be compatible with other buildings or structures in the area, and shall be finished with a non-corrosive material. Wireless telecommunications facilities placed on water towers shall be finished with a non-corrosive material to match the color of the water tower.

205.30.13. ILLUMINATION

Towers shall not be artificially illuminated except as required by the Federal Aviation Administration (“FAA”).

205.30.14. LANDSCAPING AND SCREENING

All sites shall include appropriate landscaping as required herein and shall comply with all landscaping requirements of the underlying zoning district. Accessory above-ground equipment must utilize existing buildings or structures, if possible. If no existing structures are available, the owner of the wireless telecommunications facilities may construct such a structure. At minimum, all ground equipment shall be fully screened from public rights-of-way or residential property by existing structures, a brick decorative wall, or a solid one hundred percent (100%) opaque vegetative enclosure, six feet in height at planting.

205.30.15. SECURITY

All towers must be reasonably posted and secured to protect against trespass. Chain link fences may be used to protect towers and wireless telecommunications facilities. Barbed or razor wire is prohibited. All facilities shall be designed to discourage unauthorized climbing on the structure.

All small wireless structures shall be designed in a manner so that the structure from ground level to twelve (12) feet prevents unauthorized climbing on the structure.

205.30.16. INSTALLATION REQUIREMENTS ON WATER TOWERS AND IN CITY

Installation of wireless telecommunication facilities on water towers will be permitted when the city is fully satisfied that the following requirements are met:

- A. The wireless telecommunications facility will not increase the risks of contamination to the City's water supply.
- B. There is sufficient room on the structure and/or in the grounds to accommodate the wireless telecommunication facility.
- C. The presence of the wireless telecommunication facility will not increase the water tower or reservoir maintenance costs to the City.
- D. The presence of the wireless communication facility will not be harmful to the health of workers maintaining the water tower or reservoir.
- E. All state and federal regulations pertaining to non-ionizing radiation and other health hazards has been satisfied.

205.30.17. BUILDING PERMIT REQUIRED

A building permit is required for installation of any tower, wireless telecommunications facility, or small wireless structure. The completed installation, including all associated buildings, shall comply with all applicable building codes including but not limited to the most currently adopted version of the N.F.P.A. 70 National Electrical Code, TIA/EIA 222 Structural Standards for steel antenna towers, and others as may be determined by the Building Official.

205.30.18. SETBACKS

The tower or wireless communications facility shall be located in rear or side yard areas and shall be set back at least ten (10) feet from side or rear lot lines.

205.30.19. SIGNS

Signs no larger than four (4) square feet in size and attached to a structure are the only permitted signage associated with the tower or wireless telecommunications facility.

205.30.20. CERTIFICATIONS AND INSPECTIONS

- A. All towers and wireless telecommunications facilities shall be periodically reviewed by the City to be structurally sound and in conformance with the requirements of the City Code, this Chapter, any conditions of approval placed on a special use permit and all other construction standards set forth by the City's Code, and federal, state, and local law. Existing sites may be inspected for compliance with this Section at any time if the City believes there are questions regarding compliance with the City Code, this Section, any conditions of approval placed on a special use permit, all other construction standards set forth in the City's Code, and all other federal, state and local laws.
- B. The City and its agents shall have authority to enter onto any approved site, existing site, or site approved by special use permit between the inspections and certifications required above, to inspect the site for the purpose of determining whether the sites comply with the State Building and Electrical Codes, the National Electric Safety Code and all other construction standards provided by the City's Code and federal and State law.
- C. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner(s). All expenses related to such inspections by the City shall be borne by the site owner(s).

205.30.21. MAINTENANCE

- A. Ordinary and reasonable care of towers, wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities shall be employed at all times. All towers, wireless telecommunications facilities, automatic meter reading systems, and small wireless facilities shall at all times be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person.
- B. Owners shall install and maintain towers, wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities in compliance with the requirements of the National Electric Safety Code and all FCC, State and local regulations, and in such manner that will not interfere with the use of other property.
- C. All maintenance or construction on towers, wireless telecommunications facilities, automatic meter reading systems/devices, or small wireless facilities shall be performed by qualified maintenance and construction personnel.
- D. All owners of wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities shall maintain compliance with current radio frequency emission standards of the FCC. In order to provide information to its citizens, copies of all FCC information concerning wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities shall be made available to the City and updated annually.

- E. In the event the use of a tower, a public utility structure, a wireless telecommunications facility, an automatic meter reading system/device, or small wireless facilities is discontinued by the owner of the wireless telecommunications facility, automatic meter reading system, or small wireless facilities, or in the event an owner files notice to the FCC of its interest to cease operating the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

205.30.22. PRIORITY FOR USE

Priority for use of the installation, maintenance and operation of towers and wireless telecommunications facilities will be given to the following entities in descending order:

- A. City of Fridley.
- B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Fridley and private entities with a public safety agreement with the City of Fridley.
- C. Other governmental agencies, for uses which are not related to public safety.
- D. Entities providing licensed commercial wireless telecommunication services including cellular, public and personal communication services (PCS), and similar services that are marketed to the general public.

205.30.23. CO-LOCATION

Towers shall be designed to support more than two (2) wireless telecommunications facilities. Wireless support structures shall be designated to support more than one (1) small wireless facility.

205.30.24. FEES

The applicant shall pay the fees listed in Chapter 11 for processing a request to install, operate, and maintain a tower, public utility structure, pad mount device, a wireless telecommunications facility, an automatic meter reading system and/or devices, or small wireless facility in the City. If deemed as necessary due to the nature of the application, the applicant shall also be required to reimburse the City for its cost to retain a consultant to review the requested application.

205.30.25. ABANDONMENT

If any site for which approval to install, maintain, and operate a tower, or a public utility structure, or wireless telecommunications facilities, automatic meter reading systems or small wireless facilities has been granted by the City shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the City shall notify the wireless telecommunications facility operator, automatic meter reading device operator, the small wireless facility operator and the owner of the property, that said site or system has been deemed abandoned. Upon a finding of abandonment by the City, the tower, public utility structure, wireless telecommunications facilities, automatic meter reading system, or small wireless facilities must be removed or an annual user fee shall be paid to the City. If it is determined that the abandoned tower, public utility structure, wireless telecommunications facility, automatic meter reading system or small wireless facilities cannot be removed in a reasonable time period by the owner or operator, the City shall assess all costs related to the removal to the owner(s) or operator(s), according to the procedures established in Chapter 128 of the City Code.

205.30.26. NO RECOURSE

No Recourse against the City. Every permit issued to an applicant for construction, installation, maintenance, or operation of a wireless telecommunications facility, automated meter reading system/device or small wireless facilities shall provide that, without limiting such immunities as the City of other persons may have under applicable law, an applicant/permit holder shall have no monetary recourse whatsoever against the City of its elected officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense or damage arising out of any provision or requirements of this Ordinance or because of the enforcement or lack of enforcement of this Ordinance or the City's exercise of its authority pursuant to this Ordinance, a permit, a lease, or other applicable law, unless the same shall be caused by criminal acts or by willful gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.

205.30.27. DATA PRACTICES

All documentation submitted pursuant to this Chapter by an applicant shall be subject to and governed by the Minnesota Government Data Practices Act.

205.30.28. SEVERABILITY

If any clause, section, or other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

205.30.29. VIOLATION

Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor and subject to the provisions of Chapter 901 of the Fridley City Code.