ORDINANCE 9805-01

A Zoning Ordinance Regulating Telecommunications Towers, Antenna Support Structure, Antennae, and Wireless Communications Facilities

BE IT ORDAINED BY LINCOLN COUNTY, SOUTH DAKOTA:

ARTICLE 3, BE AMENDED AS FOLLOWS:

Section 301:
- Antenna: Any device that radiates or captures electromagnetic wave signals, including digital and analog voice and data signals, video signals, or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.
- Antenna Support Structure: Any structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples, light poles, silos, and water towers.
- Broadcast Tower: Any structure, not including offices or studio, for the transmission of radio or television broadcast communications.
- Personal Communication Servicers (PCS): Licenses granted by the Federal Communications Commission (FCC) to build digital wireless phone networks which compete with standard cellular service.
- Stealth: For freestanding telecommunication towers, the ability to blend into the context of the surrounding environment at a given location. For antenna support structures, the ability to camouflage or conceal the presence of wireless communication facilities. Methods of camouflage or concealment are required to be approved by the County Communication Director.
- Telecommunications Tower: A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term does not include amateur radio operators’ equipment, as licensed by the Federal Communications Commission.
- Telecommunications Tower Height: The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.
- Telecommunications Tower Site: The lot or record on which the telecommunications tower is located.
- Wireless Communications Facilities: Any cables, wires, lines, wave guides, antennae, antenna arrays, and other equipment associated with the transmission or reception of telecommunications signals located or installed upon or near a telecommunications tower or antenna support structure.

ARTICLE 4 BE AMENDED AS FOLLOWS:

Section 404:
- (M). Broadcast Towers, Telecommunications Towers, Antenna Support Structures including Antennae, and Wireless Communications Facilities
(A) General Requirements: Maximum Height: 35’; 200’ for broadcast towers, telecommunications towers, antenna support structures including antennae, and wireless communications facilities, except as provided in Section 1111(B)(3); no limit shall apply for farm structures or wind energy conversion systems.

ARTICLE 5 BE AMENDED AS FOLLOWS:
Section 504.

(Q). Broadcast Towers, Telecommunications Towers, Antenna Support Structures including antennae, and Wireless Communications Facilities
Section 508.

(A). General Requirements: Maximum Height: 35’; 200’ for broadcast towers, telecommunications towers, antenna support structures including antennae, and wireless communications facilities, except as provided in Section 1111(B)(3).

ARTICLE 6 BE AMENDED AS FOLLOWS:
Section 602.

(B). Broadcast Towers, Telecommunications Towers, Antenna Support Structures including antennae, and Wireless Communications Facilities
Section 608.

(A). General Requirements: Maximum Height: 55’; 200’ for broadcast towers, telecommunications towers, antenna support structures including antennae, and wireless communications facilities, except as provided in Section 1111(B)(3).

ARTICLE 11 BE AMENDED AS FOLLOWS:
Section 1110. Additional Height Regulations.

(B). Mechanical Appurtenances: All necessary mechanical appurtenances placed on the roof of a building, such as air conditioning or heating units, elevator penthouses, and satellite receiving dishes, are exempt from the height regulations of this Ordinance subject to the following limitations:
(1) no such appurtenance shall exceed the maximum height permitted in the district by more than 12’ and (2) all said appurtenances shall be set back a minimum of 12’ from any face of a building which is adjacent to a street. Broadcast towers, telecommunications towers, antenna support structures, and wireless communications facilities shall not be exempt from the height regulations of this Ordinance, and shall be set back a minimum of 12’ from any face of a building which is adjacent to a street.

Section 1111. Telecommunications towers, antenna support structures and wireless communications facilities.

(A). Intent: Regulations regarding development of telecommunications towers, antenna support structures and wireless communications facilities are intended to encourage development of a competitive wireless communications market place while protecting the health, safety and welfare of the public and maintaining the aesthetic integrity of the county. The regulations cover placement, construction and modification of telecommunications towers, antenna support structures and wireless communications facilities. The intent of this section includes the following:
(1). To regulate the location of telecommunications towers, antenna support structures and wireless communication facilities.
(2). To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communications facilities.
(3). To minimize adverse visual impact of tower sites through design, siting, landscaping and innovative camouflaging techniques.
(4). To promote shared use and co-location of sites.
(5). To insure telecommunication towers, antenna support structures and wireless communication facilities are compatible with surrounding land uses.
(6). To facilitate the provision of services to residents and businesses in an orderly fashion.
(7). To promote the location of telecommunication towers, antenna support structures and wireless communication facilities in non-residential areas.
(8). To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound.

(B). Conditional Use Permit Process: The following items, among others, may be required in the Conditional Use permitting process:
(1). Compliance with Federal Aviation Administration (FAA) Regulations and Airport Approach Zones.
(2). A minimum setback of 600’ from the tower base to any existing residence or proposed residential development area based on land use plan except the farmstead residence on the proposed site. A minimum of two miles from base of tower to base of next tower site. Building structures must meet county setback requirement.
(3). Towers shall be no more than 200’ in height. Towers exceeding 200’ may be considered, if FCC and FAA approval is received.
(4). Design character shall use materials, colors, textures, screening and landscaping that create compatibility with the natural surrounding.
(5). A site shall have screening and landscaping around the perimeter. Existing site vegetation and grade shall be preserved as much as possible. Natural growth around the property perimeter may be considered sufficient buffer.
(6). Towers shall not be illuminated except as required by the FAA.
(7) All sites and equipment shall be maintained in good condition, order and repair so they shall not endanger the life or property of any person.
(8). Telecommunication towers, antenna support structures and wireless communications facilities shall be maintained in compliance with Electronic Industries Association/Telecommunications Industries Association Standards (latest revision), all applicable laws and so as not to interfere with the use of other property. Upon the County Communications Director’s determination that a tower site is a hazard to public safety, the owner shall be required to perform an inspection by a registered professional engineer and make all recommended corrections.
(9). If an owner discontinues use of a site, the County Planning and Zoning Department must receive written notification as such. If notification is filed or if site is not used for 365 consecutive days, the owner may be notified that determination of abandonment has been made. If within 30 days of receipt of notice the owner fails to show the site has
been in use or under repairs during the period, the County Planning and Zoning Director may determine the site has been abandoned. Within 75 days of determination of abandonment the owner shall remove the tower from the site. If the owner fails to do so, the County may remove the tower and recover the cost from the owner.

A motion by Schmidt and seconded by Coplan. All commissioners voted “Aye”.

First Reading May 5, 1998
Second Reading May 12, 1998

LINCOLN COUNTY BOARD OF COMMISSIONERS

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Steve Larsgaard, Chairman