

## **Chapter 22.01**

### **Wireless Communication Antennae**

#### **Section 1. Tower Moratorium.**

(a) Preamble. Recent advances in wireless communications technology have resulted in a new generation of cellular communication services. These new services, called “Personal communications Services” (“PCS”), will likely require numerous antenna locations throughout the community. These antennae may be located on buildings, water towers, and other similar structures, but will also frequently be located on towers constructed or enlarged for that purpose.

Two PCS providers have recently been licensed by the FCC and additional providers are expected to be licensed in the near future. These entities are expected to pursue antenna sites within the City, and these efforts are expected to include requests to construct new or enlarged communications towers. There is concern that current City ordinances may not adequately address issues relating to these towers, such as the appropriate locations for these towers and the conditions under which they may be allowed within the City, including structural and construction requirements, co-location setbacks, and height limitations.

There is a need to study these and other issues to determine what regulatory controls may need to be adopted to protect the public health, safety, and welfare. A City staff task force will be formed to study tower issues, but additional time is required for this purpose before proposals for amendments to City zoning regulations can be prepared and considered by the City Council at a public hearing.

The Council finds, therefore, that a moratorium is required in order to protect the planning process and to prevent the construction or enlargement of towers and the use and development of lands within the City for such towers pending the completion of necessary studies and the consideration and implementation of new regulations on that subject.

#### **(b) Moratorium Established: Scope: Definition of “Tower”**

- (1) In accordance with the findings set forth in the preamble to this ordinance and pursuant to the authority of Minnesota Statutes 462.355 (subd. 4), there is hereby established a moratorium on the construction, erection, placement, reconstruction, enlargement, or expansion of towers within the City and on the development and use of property for such purposes.
- (2) During the period of the moratorium, applications for final site and building plan approval, building permits, and other permits and approvals related to such tower work shall not be accepted by the City. Neither the Planning Commission nor the City council shall consider or grant approval of any application required for such work and no building permits for such work shall be issued.
- (3) For the purposes of the moratorium, the term “tower” shall mean “any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an

antenna, meteorological device, or similar apparatus above grade.”

(c) Applicability

The moratorium shall be applicable to property throughout the City of Howard Lake.

(d) Exceptions

The moratorium shall not apply to (1) the lawful use of existing towers or the lawful erection of antennae on such existing towers, (2) the repair and/or maintenance of any existing tower provided that such work does not enlarge or expand that tower, (3) work on a tower necessary to preserve health, safety, life, or property in the face of an emergency, and (4) tower work that has received all necessary permits and approvals from the City prior to the effective date of this ordinance.

(e) Penalties

Any person, corporation, or other entity that constructs, erects, places, reconstructs, enlarges, or expands a tower in violation of this Section shall be guilty of a misdemeanor and shall be subject to any additional legal or equitable remedies available to the City.