

**CITY OF COKATO
ORDINANCE NO: 2016-03**

Re-adoption of Telecommunications Ordinance

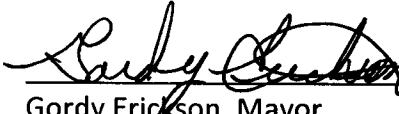
The City Council of the City of Cokato, Minnesota ordains as follows:

A public hearing to consider the re-adoption of the city's Telecommunications Ordinance was held before the Cokato Planning & Zoning Commission on Monday, August 1, 2016, at which time the Commission recommended adoption.

The City Council therefore ordains that **Title XV: Land Usage** is hereby amended to add the telecommunication provisions as outlined in the attached document.

This ordinance shall be effective immediately upon its passage and summary publication, which is hereby authorized by the City Council.

Adopted by the Cokato City Council, Wright County, Minnesota this 15th day of August, 2016.


Gordy Erickson, Mayor

Attest:


Andrew Carlson, City Clerk

CITY OF COKATO

ORDINANCE NO. 2016-03

AN ORDINANCE AMENDING SECTION 153.035 AND
ADDING SECTION 153.086 TO THE COKATO CODE OF
ORDINANCES RELATING TO TELECOMMUNICATIONS
TOWERS AND FACILITIES

THE CITY COUNCIL OF THE CITY OF COKATO ORDAINS as follows:

Section I. Section 153.035 of Code of Ordinances is amended by adding the material in *italics* as follows:

Section 153.035 INDUSTRY (1). ^(A) Purpose. An industrial district is intended to provide for industrial uses that may suitably be located in areas of relatively close proximity to nonindustrial development.

(B) Permitted Uses - None.

(C) Conditional Uses

(1) Industrial fabricating, processing or storage to be undertaken within completely enclosed buildings.

(2) Wholesaling, all commodities except live animals.

(3) Accessory uses incidental to and on the same zoning lot as the principal use.

(4) Farm implement sales and storage yards, auto sales, and mobile home sales.

(5) Sewage treatment plants.

(6) Junk yards.

(7) Commercial Kennels.

* adding → (8) → Telecommunication towers and facilities as regulated by section 153.086 of the city code.

(9) All industry not stated as a permitted use provided such industry can conform to performance standards.

3. Prohibited Uses:

a. Distillation of bone, coal, tar, petroleum, grain or wood.

- b. Manufacturing or bulk storage of explosives.
- c. Fertilizer manufacturing, compost or storage processing of garbage, offal, dead animals, refuse, or rancid fats.
- d. Livestock feeding yards or slaughter houses, or processing plants.
- e. Manufacturing, refining, or processing of chemicals.
- f. Any industry that creates an excessive odor, noise, or air environmental pollution problem.
- g. Any industry that creates a fire prevention service or hazard beyond the capacities of City and/or County government.

4. Building Requirements:

- a. Minimum Floor Area:
None.
- b. Height Limit:
None, except those that may be imposed by regulations of other governmental units.
- c. Maximum Floor Area Ratio:
0.5

5. Minimum Lot Requirements:

- a. Area:
No requirement.
- b. Width:
No requirement.
- c. Depth:
No requirement.
- d. Front Yard:
30 feet.
- e. Rear Yard:
20 feet.
- f. Side Yard:
20 feet each side; 30 feet where adjacent to side streets.

Section II. The Code of Ordinances is amended by adding a new Section 153.086 as follows:

Section 153.086 Regulation of Telecommunication Towers and Facilities.

Subdivision. A. Limited Federal Preemption. *The city recognizes that the Federal Communications Act of 1934 as amended by the Telecommunications Act of 1995 ("the Act") grants the Federal Communications Commission exclusive jurisdiction over the regulation of the environmental effects of radio frequency emissions from telecommunications facilities and the regulation of radio signal interference among users of the radio frequency spectrum. Consistent with the Act, the regulation of telecommunication towers and telecommunications facilities in the city is not intended to have the effect of prohibiting any person from providing wireless telecommunications services.*

Subdivision. B. Purpose. *The purpose of this section is to regulate the placement, construction, maintenance and modification of telecommunication towers and telecommunication facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city. In adopting this ordinance, the city intends to advance the following specific purposes:*

1. *minimize adverse visual and economic impacts of telecommunication towers and facilities through design, siting, landscaping, and camouflaging techniques;*
2. *promote and encourage shared use and colocation of telecommunication towers and antenna support structures;*
3. *avoid injury to persons and damage to adjacent properties caused by falling or dislocated telecommunication towers and facilities by ensuring that those structures are appropriately located and soundly designed, constructed, and maintained and removed promptly when no longer used or when determined to be structurally unsound;*
4. *ensure that telecommunication towers and facilities are compatible with surrounding land uses, especially residential uses; and*
5. *facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.*

Subdivision. C. Definitions. *For purposes of this section, the following terms shall have the meanings given them, except where the context clearly indicates a different meaning:*

1. *"Antenna support structure" means a building, water tower, or other structure, except a tower, which can be used for location of telecommunications facilities.*
2. *"Applicant" means a person who applies for a permit to develop, construct, build, modify or erect a tower or telecommunications facility.*

3. "Application" means the written request by the applicant for the city to consider granting permission to develop, construct, build, modify or erect a tower or telecommunications facility and the process by which the city reviews said request.

4. "Dual lighting" means a lighting pattern which varies by number, location or intensity between day and night for a single facility.

5. "Engineer" means a structural engineer licensed by the state of Minnesota.

6. "Person" means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

7. "Telecommunications facilities" means cables, wires, lines, wave guides, antennas and any other facilities or equipment associated with the transmission or reception of communications located or installed on or near a tower or antenna support structure. The term does not include a satellite earth station antenna two meters in diameter or less if located in the M-1, C-1, C-2 or I zoning districts or a satellite earth station antenna one meter in diameter or less if located in any zoning district other than the above.

8. "Telecommunications tower" or "tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term does not include amateur radio operations equipment licensed by the Federal Communications Commission.

9. "Tower height" means the vertical distance from the average grade adjacent to the base pad of the tower to the highest point of the tower or any component of the telecommunication facilities.

Subdivision. D. Application. Any person desiring to construct a tower must submit an application for a special use permit. The applicant must submit the following in connection with an application for a tower:

1. The engineering plans for the proposed tower and a written statement from an engineer that the proposed structure meets the structural requirements of the city code of ordinances;

2. A written statement from an engineer that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as liquid propane gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals;

3. A map of the city showing the location of all towers and telecommunications facilities in the applicant's entire existing or proposed wireless telecommunications network.

4. *Written evidence that the applicant will be required to remove the tower and telecommunications facilities upon cessation of operations if the site of the tower is leased; and*

5. *An application fee in the amount established by the city council.*

Subdivision. E. Performance Standards.

I. Colocation capability. Unless the applicant presents evidence to the city that colocation is not feasible, no tower may be built, constructed or erected unless the tower is capable of supporting at least one additional telecommunications facility comparable in weight, size, and surface area to the facility proposed by the applicant.

2. Setback requirements. In addition to any other setback requirement which may be applicable under this ordinance, a tower up to 180 feet in height authorized under this section must comply with the following setback and locational requirements:

- a. The tower must be set back a distance from the nearest property line equal to the height of the tower, unless an engineer certifies in writing that the tower will collapse within a lesser distance under all reasonably foreseeable circumstances. In no event, however, shall a tower be located closer to any property line than a distance equal to 50 percent of the height of the tower;*
- b. Setbacks for a tower shall be measured from the base of the tower to the nearest property line of the parcel on which it is located;*
- c. No tower may be located between a principal structure and the street, except that on corner lots, a tower may be located between the principal structure and the street having the lesser volume of traffic; and*
- d. A tower must be set back from land within the M-1, R-1, R-2, or R-3 zoning districts a minimum of 200 feet or 150 percent of the height of the tower, whichever is greater.*

A tower which exceeds 180 feet in height shall be set back from the nearest property line a distance equal to the height of the tower plus an additional 1.5 feet for every foot by which its height exceeds 180 feet, unless an engineer certifies in writing that the tower will collapse within a lesser distance under all reasonably foreseeable conditions. If an applicant produces the engineering certification required in this subdivision, the setback may be reduced to a distance no less than 75 percent of the height of the tower, except that setbacks from land within the M-1, R-1, R-2 or R-3 zoning districts shall be a minimum of 300 feet or 150 percent of the height of the tower, whichever is greater.

Notwithstanding anything herein to the contrary, any tower which is supported by guy wires shall comply with the full setback as provided herein and shall not qualify for any reduction in setback allowed by certification from an engineer regarding the collapse pattern of the tower.

3. Engineer Certification. Towers must be designed and certified by an engineer to be in conformance with the Uniform Building Code and all other applicable standards set forth in the city code of ordinances and to be structurally sound for conditions reasonably likely to occur in Minnesota.

4. Lighting. Towers may not be lighted except as required by the Federal Aviation Administration. Whenever a tower is proposed to be located within 1000 feet of land within the M-1, R-1, R-2 or R-3 zoning districts, the applicant must seek approval for dual mode lighting from the Federal Aviation Administration.

5. Exterior Finish. Towers not requiring specific painting or marking by the Federal Aviation Administration must have an exterior finish approved by the city.

6. Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed in accordance with any fencing requirements applicable within the zoning district in which the tower, antenna support structure or telecommunications facility is located, unless more stringent fencing requirements are required by the Federal Communications Commission regulations. Notwithstanding anything herein to the contrary, any guy wire used to support a tower shall be fenced so that it is protected against climbing and vandalism.

7. Camouflage; Landscaping. Reasonable but creative measures must be employed to camouflage towers from view. Landscaping on parcels containing buildings used as antenna support structures or telecommunications facilities must meet the landscaping requirements approved in the special use permit. Utility buildings and structures accessory to the tower must be designed to blend in architecturally with the surrounding environment and to meet all setback requirements applicable to the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design using non-vegetative screening better reflects and complements the character of the surrounding neighborhood. Notwithstanding anything herein to the contrary, the city may impose more stringent screening requirements when a tower, antenna support structure or telecommunications facility will be in close proximity to residential uses or environmentally sensitive areas or land forms.

8. Accessory buildings. One accessory building not more than 2000 sq. ft. in area is permitted per tower.

9. Security; Signs. Towers and telecommunication facilities must be reasonably posted and secured to offer protection against trespass. All signs must comply with applicable sign regulations. Towers and telecommunication facilities must be constructed with such devices and techniques as reasonably necessary to prevent climbing or trespass by unauthorized persons.

10. On-site parking. Property upon which any tower is located must contain vehicular access and at least one paved vehicular parking space immediately adjacent to the tower.

11. Removal of Towers. *If the use of a tower is discontinued, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued. Abandoned or unused towers or telecommunications facilities must be removed from the site within six months of the cessation of operations of the telecommunications facility at that site unless an extension of time is approved by the city council. Any tower or telecommunications facility which is not removed within six months of the cessation of operations at a site is hereby declared to be a public nuisance and may be removed by the city and the costs of removal assessed against the property.*

Subdivision. F. Additional requirements.

1. Maintenance. *Towers must be maintained in accordance with the following provisions:*

- a. *Tower owners must employ ordinary and reasonable care in the construction, use and operation of a tower and must employ commonly accepted methods and devices for preventing failures and accidents likely to cause injury, damage, or nuisance to persons or property.*
- b. *Tower owners must install and maintain towers, antenna support structures and telecommunications facilities, in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations.*
- c. *Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.*
- d. *Maintenance or repair of a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance or repair personnel.*
- e. *Towers must be used in compliance with radio frequency emissions standards of the Federal Communications Commission.*

2. Certification of Structural Conditions. *Every five years after its construction, a tower must be recertified by an engineer to be structurally sound and in conformance with the requirements of the Uniform Building Code and all other construction standards set forth by the city code of ordinances or federal or state law. A written certification to this effect must be provided to the city. The city may require more frequent certifications if it reasonably believes that the structural or electrical integrity of the tower does not comply with federal, state, or local law or regulations. The city may require repair or removal of the tower if the engineering certification discloses deficiencies in the structural integrity of the tower or that it fails to meet the requirements of the Uniform Building Code. The city may revoke the special use permit if the tower owner fails to make repairs or fails to comply with the recertification requirements of this section.*

3. Inspections. Upon reasonable notice to the owner of the tower and the property upon which it is located, the city may inspect any tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the city code or federal or state law. The expense related to such inspections will be borne by the tower owner. Based upon the results of such inspection, the city building official may require repair or removal of a tower.

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)

) ss.

COUNTY OF Wright)

Dale Kovar, being first duly sworn, on oath states as follows:

1. I am the publisher of the Dassel Cokato Enterprise Dispatch, or the publisher's designated agent. I have personal knowledge of the facts stated in this Affidavit, which is made pursuant to Minnesota Statutes §331A.07.

2. The newspaper has complied with all of the requirements to constitute a qualified newspaper under Minnesota law, including those requirements found in Minnesota Statutes §331A.02.

3. The dates of the month and the year and day of the week upon which the public notice attached/copied below was published in the newspaper are as follows:

Monday August 22, 2016

4. The publisher's lowest classified rate paid by commercial users for comparable space, as determined pursuant to § 331A.06, is as follows: \$12.75 per column inch.

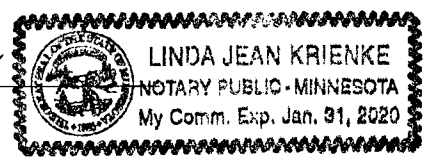
5. Mortgage Foreclosure Notices [Effective 7/1/15]. Pursuant to Minnesota Statutes §580.033 relating to the publication of mortgage foreclosure notices: The newspaper's known office of issue is located in Wright County. The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

6. FURTHER YOUR AFFIANT SAITH NOT.

Dale Kovar
[Signature]

Subscribed and sworn to before me on this 22nd day of August, 2016

Linda Jean Krienke
Notary Public



Ordinance No 2016-03
City of Cokato Telecommunications
ORDINANCE NO 2016-03, amending the City of Cokato's Zoning Ordinance to include a section governing Telecommunications, has been adopted by the Cokato City Council, Wright County, Minnesota on Monday, August 15, 2016. This Ordinance takes effect immediately.
This ordinance is a re-adoption of the Telecommunications Ordinance implemented in 1997 as Ordinance 97-1, and the general governing provisions have not changed from the previous adoption.
The full language of the ordinance is available for review at City Hall, 255 Broadway Ave S, Cokato, MN 55321 during normal business hours or on the city's website at www.cokato.mn.us.
Annita M. Smythe
City Administrator
Published in the Enterprise Dispatch Aug. 22, 2016.