

ORDINANCE NO. 98-5064

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-305 OF SAID CODE ADDING AMATEUR RADIO TOWERS AND COMMERCIAL COMMUNICATIONS TOWERS AND REVISING PROVISIONS FOR BROADCASTING STATIONS IN THE TABLE OF LIST OF USES FOR RESIDENTIAL DISTRICTS; REVISING SECTION 27-306 OF SAID CODE TO REVISE STANDARD INDUSTRIAL CLASSIFICATION NUMBER 48, COMMUNICATIONS, IN THE TABLE OF LIST OF USES FOR THE COMMERCIAL- INDUSTRIAL DISTRICTS; ADDING A SECTION TO BE NUMBERED 27-619 PROVIDING STANDARDS FOR AMATEUR RADIO TOWERS; ADDING A SECTION TO BE NUMBERED 27-620 PROVIDING STANDARDS FOR TELECOMMUNICATIONS ANTENNAE AND TOWERS; REPEALING ORDINANCE NO. 98-5058 ON THE DATE THIS ORDINANCE GOES INTO EFFECT AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That Section 27-305 of the Billings, Montana City Code be amended by adding Amateur Radio Towers and Commercial Communications Towers and revising provisions for broadcasting stations in the Table of List of uses for Residential Districts so that such section shall read as follows:



All other portions of Section 27-305 BMCC, not specifically amended above remain in full force and effect.

Section 2. That Section 27-306 of the Billings, Montana City Code be amended to revise standard industrial classification number 48, Communications, of the Table of List of Uses for the Commercial-Industrial Districts so that such section shall read as follows:

**“Sec. 27-306. District Regulations: Commercial and Industrial Uses.**

<b>TITLES AND DESCRIPTIONS OF INDUSTRIES</b>  <b>SR - SPECIAL REVIEW</b> <b>A- ALLOWED</b>	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
...									
48 COMMUNICATIONS: Offices only	A	A	A	A	A	A	A	A	A
<u>Amateur Radio Towers:</u> <u>100 feet or less in height (See Section 27-619 for additional requirements)</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Greater than 100 feet in Height</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>A</u>	<u>SR</u>	<u>SR</u>
<u>BROADCASTING (RADIO AND TELEVISION) STATIONS AND STUDIOS SERVICES:</u>	SR	SR	A	A	A	A	A	A	A
<u>Stations and studios</u>									
<u>Towers which meet the height restrictions for buildings in BMCC Section 37-309</u>	<u>SR</u>	<u>SR</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Towers exceeding the maximum height for buildings in BMCC Section 27-309, or exceed 50 feet in height, whichever is less</u>	SR	SR	SR	SR	SR	SR	<u>SR A</u>	SR	SR
<u>COMMERCIAL COMMUNICATION TOWERS AND DISHES (EXCLUDING AMATEUR RADIO TOWERS, RADIO AND TELEVISION BROADCASTING):</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Camouflaged towers/antennae</u>	<u>SR</u>	<u>SR</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Towers 50 feet or less in Height (see additional requirements in Section 27-620)</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>A</u>	<u>SR</u>	<u>SR</u>
<u>Towers Greater than 50 feet in height</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>A</u>	<u>SR</u>	<u>SR</u>
<u>Tower Farms</u>	SR	SR	A	A	A	A	A	SR	SR
<u>Dishes over 12' in diameter</u>									
...									

All other provisions of Section 27-306 BMCC, not specifically amended above remain in full force and effect.

Section 3. That the Billings, Montana City Code be amended by adding a section to be numbered 27-619 to read as follows:

**“Sec. 27-619. Standards For Amateur Radio Towers.**

**A. Definitions.** For the purposes of this section, the terms used shall be defined as follows:

1. **Amateur Radio Tower:** a ground-, building- or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service and as designated by the Federal Communications Commission (FCC).
2. **Antenna/Tower Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**B. General Provisions.** All amateur radio towers shall comply with the following requirements:

1. Amateur radio towers shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.
2. Amateur radio towers exceeding six (6) feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
3. It is recommended that amateur radio towers be designed, installed, and maintained so as to blend into the surrounding environment through the use of color and camouflaging, except in instances where the color is dictated by the FAA.
4. In accordance with the FCC’s preemptive ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennae may exceed the height limitations of the underlying zoning as indicated in Section 27-305, BMCC.
5. Attachments to amateur radio towers, such as guy wires, shall not cross any property line or any existing or proposed easement.
6. No lighting shall be permitted on any amateur radio towers except as mandated by the FAA.

7. No signage, other than required warning signs, or displays of any type shall be permitted on any amateur radio tower.”

Section 4. That the Billings, Montana City Code be amended by adding a section to be numbered 27-620 to read as follows:

**“Sec. 27-620. Standards for Telecommunications Antennae and Towers.**

**A. Purpose.**

The purpose of this section is to establish regulations for the siting of towers and antennae on public and private property. The goals of this section are to:

1. encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community;
2. strongly encourage the joint use of new and existing tower sites;
3. require users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
4. require users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae; and
5. enhance the ability of the providers of telecommunications services to provide such services to the community, as quickly, effectively, and efficiently as possible.

**B. Definitions.**

**Abandoned Towers:** Any antenna or tower that is not utilized for the provision of telecommunications services for a continuous period of six (6) months shall be considered abandoned.

**Alternative/Camouflaged Tower Structure:** Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennae or towers.

**Antenna:** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae, such as panels, microwave dishes, and satellite dishes, and omni-directional antennae, such as whip antennae but not including satellite earth stations.

**Antenna/Tower Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Antenna or Tower Farm:** An antenna or tower farm is a tract of land which contains three (3) or

more towers within 750 linear feet of each other. Legal tracts must be adjacent to each other to be included in this definition.

**Co-location:** The use of a telecommunications facility by more than one telecommunications provider.

**Commercial Telecommunications Services:** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**Communications Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for telecommunications services, including self-supporting lattice towers, guyed towers, or 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.

**Equipment Enclosure:** A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.

**FAA:** Federal Aviation Administration

**FCC:** Federal Communications Commission

### **C. Applicability.**

All towers or antennae located within the City of Billings and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this ordinance/resolution. This ordinance/resolution shall apply to towers and antennae upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this ordinance/resolution:

1. Amateur radio stations and towers. (See Sections 27-305; 27-306 and 27-619, BMCC)
2. Broadcast towers for radio and television. (See Sections 27-305 and 27-306, BMCC)
3. Pre-existing towers or antennae. Pre-existing towers and pre-existing antennae shall not be required to meet the requirements of this ordinance/resolution, so long as said pre-existing towers had received all required approvals, permits and exceptions prior to adoption of this ordinance/resolution. (See Section I of these regulations.)

### **D. Commercial Towers Located in Residential Zoning Districts.**

1. Towers shall be permitted as an allowed use in all residential zoning districts provided the tower meets all of the following criteria:

a) Towers supporting commercial antennae conforming to all applicable provisions of this Code shall be permitted as an allowed use only in the following locations:

1. Church, school, utility, and government sites, when camouflaged as steeples, bell towers, clock towers, or similar structures.

2. Towers shall be permitted in the Agricultural-Open Space (AO) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:

a) Towers supporting commercial antennae conforming to all applicable provisions of this Code shall be permitted as an allowed use only in the following locations:

1. Church, school, utility, and government sites, when camouflaged as steeples, bell towers, clock towers, or similar structures.

2. Commercial towers fifty (50) feet or less in height.

b) Commercial towers which are greater than fifty (50) feet in height shall be required to obtain special review approval.

c) Tower farms are permitted by special review.

**E. Towers Located in Commercial Zoning Districts.**

1. Towers shall be permitted as an allowed use in all commercial zoning districts provided the tower meets all of the following criteria:

a) Church, school, utility, and government sites, when camouflaged as steeples, bell towers, clock towers, or similar structures.

b) When co-located on an existing tower which has previously received all required approvals and permits, and meets the provisions and requirements of these regulations.

2. Towers located in Residential Professional (RP), Neighborhood Commercial (NC), and Entryway Mixed Use (EMU) that do not meet the requirements of Section E(1) shall be required to obtain special review approval.

3. New towers erected in the Medical Corridor shall be required to follow the permit zoning approval procedures in Section 27-901, BMCC. Antennae may be placed on existing towers and structures without obtaining permit zoning approval.

4. Towers located in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI), South 27th Street, Central Business District (CBD),

Controlled Industrial (CI), Entryway Light Commercial (ELC), Entryway General Commercial (EGC), and Public (P) zoning districts shall be permitted as an allowed use provided that the towers meet the requirements of Section E(1), or:

- a. Commercial towers located on the roof of any existing structure shall be permitted as an allowed use.
  - b. Commercial towers fifty (50) feet in height or less shall be permitted as an allowed use.
  - c. Commercial towers which are greater than fifty (50) feet in height shall be required to obtain special review approval.
  - d. Tower farms are permitted by special review, except in the CBD and South 27th Street zoning districts.
5. All commercial towers located in Heavy Industrial (HI) shall be permitted as an allowed use, including tower farms.

**F. Commercial Towers Located in Parks.**

The presence of certain communications antennae or towers represents a potential conflict with the purpose of some City and County owned parks. In no case shall towers be allowed in designated conservation areas. Communications antennae or towers will be considered only in the following parks after the recommendation of the City and/or County Staff; the City Parks, Recreation, and Cemetery Advisory Board or County Parks Board; and the City Council or County Commission.

1. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
2. Commercial recreation areas and major playfields; and,
3. Park maintenance facilities.

**G. General Requirements.**

The requirements set forth in this section shall govern the location and construction of all telecommunications facilities governed by this ordinance/resolution.

1. **Building Codes and Safety Standards.** To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time.
2. **Regulatory Compliance.**

All telecommunications facilities 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 telecommunications facilities governed by this ordinance shall bring such telecommunications facilities into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.

3. **Setbacks:**

- a. **Commercial towers adjacent to residential uses or zoning.** Towers must be set back, from all property lines, a distance equal to the height of the tower from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a fifteen (15) foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the tower is located, whichever is greater.
- b. **Commercial zoning setbacks.** Towers and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.

4. **Lot coverage and height:** Towers and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.

5. **Fencing and Buffering.**

- a. **Fencing.** A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the tower site. Climb-proof shields can be substituted for a fence or wall around the tower.
- b. **Landscaping adjacent residential uses and/or residential zoning.** For facilities located in a residential zoning district, adjacent to a residential use, or adjacent to a residentially zoned parcel the following will be required: a combination of hedges (firs or other fast-growing plants) and/or evergreen trees, at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the tower site and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes.
- c. **Commercial landscaping.** For all other facilities located in commercially or industrially zoned district, the landscaping requirements in Section 27-1102, BMCC shall apply.

6. **Lighting.** Antenna towers shall not be artificially lighted unless required by the

FAA or other state or federal agency. If safety lighting is required by the FAA, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to twenty (20) feet high on the tower, and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower. It is recommended that cut-off lighting be used. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.

7. **Signage.** Signage shall be limited to non-illuminated warning and equipment identification signs.
8. **Co-location.**
  - a) Any proposed tower shall be designed in all respects to accommodate both the applicant's antennae and comparable antennae for at least two (2) additional users if the tower is over one hundred (100) feet in height or for at least one (1) additional comparable antennae if the tower is between fifty (50) feet and one hundred (100) feet in height.
  - b) All new antennae must co-locate on existing towers or structures unless the provisions of Section K(10) of these regulations are met.
9. **Maintenance.**
  - a) Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
  - b) All property used for the siting of a commercial telecommunications tower or antenna shall be maintained, without expense to the city and/or county, so as to be safe orderly, attractive, and in conformity with city and/or county codes including those regarding the removal of weeds and trash.
10. **Visual Impact/Aesthetics.**
  - a) Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable state or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
  - b) If an antenna is installed on a structure other than a tower, the antenna and associated 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. Roof-mounted antennae shall be made visually unobtrusive by

screening to match existing air conditioning units, stair, elevator towers or other background.

- c) Where feasible, telecommunications facilities should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
- d) Telecommunications facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the Billings City Council or the Yellowstone County Commission, or by any state or federal law or agency.

11. **Tower Separation.** All commercial telecommunications towers over fifty (50) feet in height, regardless of the zoning district in which the tower is located, shall be located at least one (1) mile from any other commercial telecommunications tower. Towers located within an approved tower farm shall be excluded from this requirement.

**H. Nonconforming Telecommunications Facilities.** Telecommunications towers and/or facilities in existence on the date of the adoption of these regulations, which do not comply with the requirements of these regulations (nonconforming towers) are subject to the following provisions:

- 1. Nonconforming towers may continue their present use, but may not be expanded without complying with these regulations, except as further provided in this section.
- 2. Nonconforming towers may add additional antennae (belonging to the same carrier or other carriers) subject to review and approval by the Planning Department.
- 3. Nonconforming towers which are hereafter damaged or destroyed, by less than fifty percent 50%, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If a tower is destroyed or damaged by more than fifty percent (50%) the tower must be brought into compliance with these regulations.
- 4. The owner of any nonconforming tower may replace and/or repair such tower in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.

**I. Modifications to Existing Facilities or Pre-existing Facilities Which Meet the Requirements of These Regulations.**

- 1. **Minor modifications.** Minor modifications to facilities permitted under these regulations shall be approved by the Planning Department. Minor modifications are as follows: the addition of no more than two (2) antenna arrays to any existing tower, so long as; the addition of the antenna arrays add no more than twenty (20) feet in height

to the facility; an increase in height of the support structure which is no greater than ten percent (10%). Co-locations of up to one (1) antennae array shall be considered a minor modification.

2. **Major modifications.** Major modifications to towers permitted under these regulations shall be approved through a Special Review. Major modifications are any that exceed the definition of minor modifications.

**J. Abandonment.** Communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the Planning Department, which shall have the right to request documentation from the facility owner regarding tower or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:

1. re-use the facility, or transfer the facility to another owner who will re-use it; or
2. dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the City and/or County may remove the facility at the facility and/or property owner's expense. If the facility is removed, City and/or County approval of the facility will expire.

If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the Planning Department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.

**K. Submittal Requirements.** The applicant of a new telecommunications tower/facility shall provide the following documentation for review by the Planning Department:

1. A map to scale showing the service area of the proposed telecommunications facility and an explanation of the need for that facility.
2. A map showing the locations and service areas of other telecommunications facilities operated by the applicant and those that are proposed by the applicant which are close enough to impact service within the City/County.
3. A site/landscaping plan showing the specific placement of the telecommunications facilities on the site; showing the location of existing structures, and indicating type and locations of plant materials used to screen telecommunications facility components and the proposed color(s) for the telecommunications facility.
4. Inventory of existing sites. Each applicant for one or more towers shall provide to the Planning Department an inventory of its existing towers, including specific information about the location, height, and design of each tower. The Planning Department shall maintain an inventory of existing towers, including specific information about the location, height, and design of each tower. The City may share such information with other persons, organizations or governmental authorities seeking to locate antennae

within the City and/or County.

5. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Department that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
  - a. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
  - b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - e. The fees or costs required to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs below new tower development are presumed reasonable.
  - f. Property owners or owners of existing towers or structures are unwilling to accommodate the applicant's needs.
  - g. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

**L. Special Review Uses.**

1. A request for a special review shall be initiated by application to the Planning Department and handled in accordance with the special review procedure provided in Sections 27-1503 and 27-1509 of these zoning regulations. The Billings City Council or Yellowstone County Commission may issue special review approval under these sections provided they shall have determined that all of the requirements of the Section G of these regulations have been satisfied and, further, that the benefits of and need for the proposed tower are greater than any possible depreciating effects and damage to neighboring properties.
2. In granting special review approval, the Billings City Council or Yellowstone County Commission may impose additional conditions to the extent determined necessary to

buffer or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties.

3. Expiration of Special Review Approval:

- a. A building permit must be applied for within one (1) year of a special review approval and the project shall be completed within two (2) years from the date the special review is granted by the City Council or County Commission. For the purposes of these regulations, the term start of construction shall be defined as the installation of a permanent foundation for the tower structure. The City Council and/or County Commission may grant up to two (2), six (6) month extensions of the period to start construction upon written request by the applicant.
- b. The City Council or County Commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations which have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing. The City Council or County Commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.
- c. Small increases in the height of existing towers approved by Special Review may be approved by the Planning Department on an administrative basis provided:
  1. The increase in height is used to facilitate the co-location of another communications provider on the same structure; and
  2. The increase in the height of the tower structure is ten percent (10%) or less.

**M. Appeals.** Appeals from any decision of the Planning Department may be taken by any person aggrieved or any official of the city affected by the decision of the Planning Department. Such appeal shall be to the City and/or County Board of Adjustment pursuant to Section 27-1506 and/or Section 27-1511 of the City of Billings and Yellowstone County Unified Zoning Regulations.

**N. Nuisances.** Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the City and/or County noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.”

**Section 5. REPEAL OF PRIOR ORDINANCE.** That Ordinance No. 98-5058 of the Billings, Montana City Code is hereby repealed on the date that this Ordinance goes into effect and Ordinance No. 98-5058 will then be null and void and of no effect.

Section 6. EFFECTIVE DATE - RETROACTIVE APPLICABILITY. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law and shall apply retroactively to July 8, 1998, the date that repealed Ordinance Number 98-5058 went into effect.

Section 7. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 8 . SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 27 day of July, 1998.

PASSED, ADOPTED AND APPROVED on second reading this 10 day of \_\_\_\_\_, 1998.



CITY OF BILLINGS:

BY: Charles F. Tooley  
Charles F. Tooley, MAYOR

ATTEST:

BY: Marita Herold  
Marita Herold, CMC CITY CLERK