

TITLE 33
REGULATION OF WIRELESS TELECOMMUNICATIONS FACILITIES

(Title 33 established effective 8/4/07, Ordinance 2007-17)

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CHAPTER 33.01
GENERAL PROVISIONS

SECTIONS:

- 33.01.01: Scope and Purpose
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33.01.01: SCOPE AND PURPOSE

The purpose of this Title is to establish reasonable and impartial regulations for the construction and placement of all wireless communications facilities. The regulations set forth herein are intended to encourage the 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 City. The regulations set forth herein apply to the placement, construction, and modification of telecommunications facilities and are being adopted for the following purposes:

- A. To implement a municipal policy concerning the placement, construction, and modification of wireless telecommunications facilities within the City;
- B. To establish clear guidelines, standards, and timeframes for the exercise of municipal authority to regulation telecommunications facilities;
- C. To protect the scenic and visual character of the City through careful design, landscaping, site placement, and screening and

camouflaging techniques by minimizing the adverse impacts of such facilities including: Scenic and visual impact, environmental impacts, impacts to historically significant areas, health and safety impacts and property value impacts;

- D. To promote and encourage share use/co-location of existing and new telecommunications facilities as a primary option rather than construction of additional single use telecommunications facilities;
- E. To further the goals and policies of the Comprehensive Plan of the City of Sturgis, while promoting orderly development of the City with minimal impact and existing uses;
- F. To avoid potential damages to property caused by telecommunications facilities by ensuring that such facilities are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound;
- G. To ensure that telecommunications facilities are compatible with surrounding land uses to facilitate the provision of wireless communications services to residence and businesses in an orderly fashion; and
- H. To promote the location of telecommunications towers in nonresidential areas;

33.01.02: DEFINITIONS

WIRELESS TELECOMMUNICATIONS FACILITY: Any structure, antenna, tower or device which provides radio or television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, common carrier wireless exchange phone services, specialized mobile radio communications, personal communication service or pager service.

EMERGENCY WIRELESS TELECOMMUNICATIONS FACILITY: A temporary wireless communication facility for emergency communications by public and private official.

AMATEUR (HAM) RADIO STATION: An antenna of an Amateur (HAM) Radio Station licensed by the Federal Communications Commission (FCC).

TEMPORARY WIRELESS TELECOMMUNICATIONS FACILITY: A portable self-contained cell site facility that can be moved to a location and set up to provide personal wireless services on a temporary basis. One normally includes tower, antenna, and accompanying equipment that is used on a seasonal or

temporary basis and can be completely removed from the property when not in use.

33.01.03: PENALTY

Any violation of the provisions of this Title is a Class 2 misdemeanor punishable by the maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any costs and/or restitution authorized by this Title and/or state law.

**CHAPTER 33.02
APPLICABILITY**

SECTIONS:

- 33.02.01: Application of Title
- 33.02.02: Existing Wireless Telecommunications Facilities

33.02.01: APPLICATION OF TITLE

This Title shall apply to all construction and expansion of wireless telecommunications facilities with the exception that the following are exempt from the provisions of this Title unless specifically stated otherwise herein:

- A. Emergency wireless telecommunications facilities;
- B. Amateur (HAM) radio station antennas that are not more than thirty five feet (35') in height;
- C. Temporary wireless telecommunications facilities are exempt from all Sections unless specifically provided otherwise herein;
- D. An antenna used as an accessory to a residential dwelling unit provided that it does not exceed thirty five feet (35') in height; and
- E. Nonconforming, previously existing wireless telecommunications facilities which meet the requirements set forth herein;

33.02.02: EXISTING WIRELESS TELECOMMUNICATIONS FACILITIES

Any telecommunications facility legally existing at the time of adoption of this Title shall be considered a legal nonconforming wireless telecommunications facility and shall be allowed to continue its current usage as it exists at the time of adoption of this Title.

Any legal nonconforming wireless telecommunications facility shall be allowed to remain in place for its existing use and be maintained, provided however that any legally existing nonconforming telecommunications facility may not be:

- A. Structurally altered including adding to the size or height of the facility;
- B. Altered so as to increase the degree of nonconformity or change its existing use;

- C. Expanded;
- D. Reestablished after its disconnected use of one hundred and eighty (180) days; or
- E. Reestablished after damage or destruction is the estimated cost of reconstruction exceeds fifty percent (50%) of the appraised replacement cost.

**CHAPTER 33.03
APPLICATION PROCEDURES**

SECTIONS:

- 33.03.01: Approval Required
- 33.03.02: Pre-application Conference
- 33.03.03: Application Requirements
- 33.03.04: Application Fee
- 33.03.05: Notice of Complete Application
- 33.03.06: Approval
- 33.03.07: Public Hearing
- 33.03.08: City Council Decision

33.03.01: APPROVAL REQUIRED

No person shall construct, expand, or structurally alter a wireless telecommunications facility within the City without first having been issued an appropriate permit. The responsibility for securing the permit is joint and several of the entity constructing, expanding or structurally altering the wireless telecommunications facility and the owner of the property upon which said facility is being placed or altered.

33.03.02: PRE-APPLICATION CONFERENCE

Any person seeking approval of the City Council and the issuance of a permit under this Title for the placement of a wireless telecommunications facility shall meet with the City Planning and Zoning Commission before filing an application. At this meeting, the Commission shall explain to the applicant the Title provisions as well as application forms and submissions that will be required under this Title. Any person may schedule such a conference by contacting the Building Inspector and requesting that he or she be placed on the next regularly scheduled meeting of the Sturgis Planning and Zoning Commission.

33.03.03: APPLICATION REQUIREMENTS

The permit application shall include and/or be accompanied by the following information:

- A The full name, address and telephone number of the applicant;
- B The full name, address and telephone number of the owner of the property upon which the wireless telecommunications facility is to be placed and/or structurally altered;

- C A copy of the lease or sale agreement for the property on which the tower is proposed to be located, and if applicable, the portion of the agreement that specifies, in case of abandonment, a method that the utility will follow in dismantling and removing the proposed telecommunications facility, including a time table for removal;
- D A site plan or survey, signed and sealed by a registered professional engineer or surveyor in South Dakota, that shows the proposed location of the wireless telecommunications facility and all easements and existing structures within seven hundred and fifty feet (750') of the proposed site on the property on which the facility will be located, and all easements and existing structures within two hundred and fifty feet (250') of the access drive, including intersection with the public street or right of way;
- E A map drawn to scale or a colored aerial photograph to scale no less than one inch (1") equals four hundred feet (400') that identifies every structure and every owner of real estate within a fifteen hundred foot (1500') radius of the proposed facility;
- F Statement that every person who, according to the records confirmed by Meade County Equalization and Planning, owns property within fifteen hundred feet (1500') of the proposed facility or property contiguous or adjacent land owners to the site upon which the facility is proposed to be constructed unless the proposed facility is to be placed within a communication center has been:
 - i. Notified by certified mail at least fourteen (14) calendar days in advance of any City Planning and Zoning Commission meeting and/or any Sturgis City Council meeting along with a return receipt request, of the proposed construction which notice shall include a map of the location of the proposed construction;
 - ii. Given the telephone number and address of the developer, applicant and land owner; and
 - iii. Informed of his or her rights to participate in the City Planning and Zoning Commission meeting or Sturgis City Council meeting on the application.
- G A list of the property owners who received the notice, together with copies of the certified receipts for the notice sent to the list of property owners;

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- H Written verification that the property on which the wireless telecommunications facility is proposed to be located is an approved lot for such purpose and appropriately platted;
- I A scenic assessment, consisting of the following:
- i. Elevation drawings of the proposed facility and any other proposed structure showing height above ground level;
 - ii. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type location of plans proposed to screen the facility; the method of fencing, the color of the structure and the proposed lighting method;
 - iii. Photo simulations of the proposed facility taken from the perspectives determined by the City Planning and Zoning Commission, or their designee, during the preapplication conference. Each photo must be labeled with the line of site, elevation, and with the date taken and printed on the photograph. Photos must show the color of the facility and the method of screening.
- J A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement is not required disclosure of confidential business information;
- K Evidence demonstrating that no existing facility, building, site, or structure can accommodate the applicant's proposed facility, the evidence of which may consist of any one or more of the following:
- i. Evidence that no existing facilities are located within the targeted market coverage area that are suitable to meet the applicant's engineering requirements;
 - ii. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements;
 - iii. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically that planned necessary equipment would exceed the structural capacity of the existing facilities, considering the existing and planned use of those facilities and existing facilities

cannot be reinforced to accommodate the new equipment; and existing facilities do not have space on which planned equipment can be placed so it can function effectively;

- iv. The fees, costs, or contractual provision required by the owner in order to share or adopt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable;
 - v. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building or structure and has been denied;
 - vi. The applicant's proposed antenna or equipment would cause electromagnetic interference with antenna on the existing powers or structures;
 - vii. Antennas or equipment on the existing facility would cause electromagnetic interference with the applicant's proposed antenna.
- L A sample of a form of surety approved by the City Planning and Zoning Commission to pay for the costs of removing the facility if it is abandoned. Actual surety is to be obtained after approval of the application by the City Planning and Zoning Commission;
- M A brief description of the character of the general area in which the tower is proposed to be constructed along with a five (5) year future development trend expected in the area, to be agreed upon by the City Engineering and Inspection Office;
- N A statement that the applicant has made a good faith effort to identify and evaluate less intrusive alternatives and considered the likely effects of the insulation on nearby land uses and has concluded that there is no more suitable location reasonably available for a tower space for a wireless telecommunications facility from which adequate service to the area can be provided;
- O Documentation from the Federal Communications Commission ensuring public safety radio services will be free from harmful or destructive interference; and

- P Documentation verifying that the Federal Aviation Administration has been notified of the proposed wireless telecommunications facility and the site location.
- Q. Documentation including registration number received from the Federal Communications Commission by the applicant verifying the Federal Communication Commission's approval of the facility.

(Section Q added effective 8/31/07, Ordinance 2007-23)

33.03.04: APPLICATION FEE

An application shall include an application fee of Five Hundred Dollars (\$500.00). The application shall not be considered complete until this fee is paid.

33.03.05: NOTICE OF COMPLETE APPLICATION

Upon receipt of an application, the Sturgis Planning and Zoning Commission shall provide the applicant with a dated receipt. Within thirty (30) working days of a receipt of an application, the City Planning and Zoning Commission shall review the application and determine if the application meets the submission requirements.

If the application is complete, the Planning and Zoning Commission shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Commission. The applicant shall then be added to the agenda of the next regularly scheduled meeting of the Planning and Zoning Commission.

If the application is deemed to be incomplete, the Planning and Zoning Commission shall notify the applicant in writing, specifying the additional materials or information required to complete to application. The applicant shall then be responsible for supplementing the application until it is deemed to be complete.

33.03.06: APPROVAL

Within ninety (90) days after receiving a completed application for approval, the City Planning and Zoning Commission shall approve, approve with condition, or deny the application in writing together with the findings on which that decision is based. The Commission's decisions shall then be submitted to the Finance Officer along with a copy of the complete application and the Finance Officer shall provide a copy of the application and the Commission's decision to each member of the City Council and the Mayor. The Commission's decision shall act as the Planning and Zoning Commission's recommendation on the application.

33.03.07: PUBLIC HEARING

A public hearing shall be held within 30 days of the City Council receiving the completed application and the written recommendation of the Planning and Zoning Commission. The Finance Officer shall notify the applicant in writing of the location, time and date of the public hearing. The applicant shall be responsible for notifying applicable landowners of the hearing as set forth previously within this Title. Detailed minutes of the public hearing shall be taken and, if necessary due to complexity, the hearing may be recorded for purposes of preserving the record of the proceedings.

33.03.08: CITY COUNCIL DECISION

Within 30 days after the public hearing, the City Council shall issue a written decision to the applicant either approving, denying or approving with conditions the application request and issuance of the permit. Any decision to deny a permit request shall be supported by substantial evidence contained within a written record.

**Chapter 33.04
APPROVAL STANDARDS**

SECTIONS:

- 33.04.01: Standards and Grounds for Denial
- 33.04.02: Structural Design
- 33.04.03: Location
- 33.04.04: Setbacks
- 33.04.05: Fencing
- 33.04.06: Access
- 33.04.07: Landscaping
- 33.04.08: Lighting
- 33.04.09: Color and Materials
- 33.04.10: Visual Impact
- 33.04.11: Liability Insurance
- 33.04.12: Fees and Costs

33.04.01: STANDARDS AND GROUNDS FOR DENIAL

An application for approval of a permit issued under this Title shall meet all of the Approval Standards set forth in this Chapter and failure to do so shall be grounds for denial of any application.

33.04.02: STRUCTURAL DESIGN

Any new wireless telecommunication facilities or alternations to existing facilities shall be constructed in accordance with all applicable City Building Codes and shall meet or exceed any applicable State, Federal, or local regulations.

33.04.03: LOCATION

Wireless telecommunication facilities shall not be permitted in areas zoned residential.

Unless otherwise specifically provided within this Title, any wireless telecommunication facility shall be a minimum of 750 feet from any existing structure.

33.04.04: SETBACKS

Any wireless telecommunications facility shall comply with the setback requirements of the zoning district in which it is located.

Setbacks shall be measured from the base of the tower/antenna of the facility or from any protruding building structure at the base of the facility, whichever is closest to the property line of the parcel on which it is located.

In the event where there is a conflict between the minimum lot setback and minimum street right-of-way setback, the greater setback shall apply. All guy wires, support anchors and any other appurtenances of the facility shall meet all setback requirements.

33.04.05: FENCING

A chain link fence or wall not less than six (6) feet in height, from finished grade equipped with an appropriate anti-climbing device shall be placed around any wireless telecommunications facility.

33.04.06: ACCESS

Access to any wireless telecommunication facility shall be through a locked structurally sound gate.

33.04.07: LANDSCAPING

Landscaping shall be used to mitigate the visual impacts of a wireless telecommunications facility. In the event adequate vegetation is not present, the facility location shall be landscaped with a landscape buffer that effectively screens the view of the facility. Existing vegetation shall be preserved to the maximum extent practicable.

Landscaping shall be used placed inside and outside the fenced area and shall include planting trees to blend the facility in with the surrounding development and natural scenery.

33.04.08: LIGHTING

Any wireless telecommunication facility shall not be illuminated, except for security lighting that is directed down in a manner to retain light within the boundaries of the site or as required by the FCC or FAA.

33.04.09: COLOR AND MATERIALS

Any wireless telecommunication facility shall be constructed with materials and colors that match with the surrounding natural or built environment to the maximum extent practicable. Unless otherwise required, muted colors and earth tones shall be used.

33.04.10: VISUAL IMPACT

Any wireless telecommunications facility shall not have any unreasonable adverse impact upon designated scenic resources within the City as identified either in the Comprehensive Plan, or by a State or Federal agency.

In determining the potential unreasonable adverse impact of the proposed facility upon designated scenic resources; the following factors shall be considered:

- A. The extent to which the proposed wireless telecommunications facility is visible above the tree line as seen from one or more viewpoints of the impacted designated scenic resource;
- B. The type, number, height, and proximity of existing structures and features and background features within the same line of sight as the proposed facility;
- C. The extent to which the proposed wireless telecommunications facility would be visible from viewpoints;
- D. The amount of vegetative screening;
- E. The distances of the proposed facility from viewpoints and the location of the facility; and
- F. The presence of reasonable alternatives that would allow the facility to function consistently with its purpose.

33.04.11: LIABILITY INSURANCE

Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) shall be maintained by the owner and operator of any wireless telecommunication facility until such facility is dismantled and removed from the location within the City. Proof of said insurance shall be provided to the Finance Officer upon completion of the application process.

33.04.12: FEES AND COSTS

Any wireless telecommunications facility's owner or operator shall have paid all fees and/or costs associated with the application process, including the costs associated with any third party expert review.

**CHAPTER 33.05
THIRD PARTY REVIEW**

SECTIONS:

33.05.01: Necessity

33.05.02: Cost

33.05.01: NECESSITY

Wireless service providers use various methodologies and analyses, including geographically-based computer software to demonstrate the specific technical parameters of their services and rely upon said methodologies and analyses in determining the need for expansion of certain services. Considerations such as expected coverage areas, antenna configurations, topographical constraints that affect signal paths and other factors of consideration are beyond the knowledge of the City's professionals. Due to the complexity of the wireless telecommunication area, it may become necessary for the City to hire a third party expert to assist the City with its duties and authority under this Title, including having the expert complete a review of technical data submitted by an applicant.

33.05.02: COST

Any costs associated with the hiring of a third party expert under this Title, shall be the responsibility of the applicant. The City shall provide the applicant with a copy of any bill received from the third party expert and any applicant shall make payment for said bill to the City Finance Office prior to the public hearing being held on the application. No application shall be approved or permit issued until all costs have been paid by the applicant.

CHAPTER 33.06 INSPECTION

SECTIONS:

- 33.06.01: Initial Inspection
- 33.06.02: Future Inspections
- 33.06.03: Reports to be submitted to City
- 33.06.04: Repair or Demolition
- 33.06.05: Required Repairs
- 33.06.06: Required Demolition
- 33.06.07: Costs
- 33.06.08: Selection of Third Party Expert
- 33.06.09: Intent of Third Party Expert Review

33.06.01: INITIAL INSPECTION

Any new wireless telecommunications facility shall be inspected for structural integrity by a qualified Registered Professional Engineer within 30 days after construction is complete.

33.06.02: FUTURE INSPECTIONS

Following initial inspection, any wireless telecommunications facility shall be inspected by a qualified Registered Professional Engineer no less than once every ten (10) years.

33.06.03: REPORTS TO BE SUBMITTED TO CITY

A copy of any inspection report obtained shall be provided to the City Building Inspector within 30 days of its receipt by the owner or operator of the facility. Failure to provide the required inspection reports within the time required shall be deemed *prima facie* evidence of abandonment of the facility.

33.06.04: REPAIR OR DEMOLITION

Upon the recommendation of the City Engineer after review of any inspection reports, the City may require the facility be repaired or demolished based upon the results of the inspection.

33.06.05: REQUIRED REPAIRS

Any repairs that are required as a result of the inspection shall be completed within ninety (90) days from the receipt of notice by the owner or operator or the

needed repairs. Repairs may be required to be completed more quickly if the City Engineer determines that a safety emergency exists.

33.06.06: REQUIRED DEMOLITION

Within ninety (90) days of receipt of notice, the owner shall complete the removal of a facility that has been ordered demolished based upon an inspection report.

33.06.07: COSTS

Any costs of inspection, reports, repairs or demolition required under this Title shall be the responsibility of the owner or operator of the facility.

33.06.08: SELECTION OF THIRD PARTY EXPERT

The selection of any third party expert may be by mutual agreement of the City and the applicant, or, at the discretion of the City, provided, however, that the applicant is entitled to review any reports prepared by the expert and comment on their content.

33.06.09: INTENT OF THIRD PARTY EXPERT REVIEW

The third party expert review is intended to address interference and public safety issues and be a site-specific review of technical aspects of the facility and/or a review of the applicant/provider's methodology and equipment and/or a review of any other technical aspects of the proposal that may have arisen during the application process that are beyond the knowledge of the City professionals. Based upon the expert's review, the City may require changes and/or additions to the applicant/provider's application.

CHAPTER 33.07 ABANDONMENT

SECTIONS:

- 33.07.01: Duty of Owner or Operator Upon Intent to Abandon
- 33.07.02: Authority of the City to Deem Abandoned
- 33.07.03: Options of Owner After Abandonment
- 33.07.04: Authority of the City Upon Owner's Failure to Act

33.07.01: DUTY OF OWNER OR OPERATOR UPON INTENT TO ABANDON

It shall be the duty of the owner or operator of any wireless telecommunications facility to notify the City in writing of any intent to abandon use of any facility. Said written notice shall be provided to the City Engineering and Inspections Office and include the owner or operator's intent with regards to the abandoned facility.

33.07.02: AUTHORITY OF THE CITY TO DEEM ABANDONED

In the event the use of any wireless telecommunications facility has been discontinued for a period of one hundred and eighty (180) consecutive days, the facility shall be deemed to have been abandoned. The City Engineering and Inspections Office shall provide written notice to the owner or operator of the facility that the facility is deemed abandoned and that the owner and/or operator shall be required to remove the facility.

33.07.03: OPTIONS OF OWNER AFTER ABANDONMENT

Within forty five (45) days of receipt of a notice of abandonment or within forty five (45) days of notifying the City of intent to abandon, the owner or operator shall exercise one of the following options:

- A. Demonstrate to the City Engineer that the facility has not been abandoned, is in use, or has been in use during the continuous period of the preceding one hundred and eighty (180) days, is being properly maintained and is not a safety hazard;
- B. Reactivate the use of the facility or transfer the facility to another owner/operator who will make actual use of the facility; or
- C. Submit a plan for completion of removal of the abandoned facility to be accomplished within ninety (90) days. Said plan shall include the site of the facility being returned to its pre-construction natural condition.

33.07.04: AUTHORITY OF THE CITY UPON OWNER'S FAILURE TO ACT

In the event the owner or operator of the wireless telecommunications facility fails to exercise one of the three options within the allowed time, including failure to follow through with completion of removal, then the City may proceed at the owner or operator's expense to remove the abandoned facility and return the site to its pre-construction natural condition.

The owner or operator of the facility shall be responsible for all costs associated with the dismantling and removal of any abandoned facility. In the event the City removes any facility, the costs of dismantling, removal and replacement of the site to its pre-construction natural condition shall be assessed against the facility's owner and/or operator. The lien of such assessment shall bear interest, have priority and be collectable as provided by South Dakota law.

CHAPTER 33.08
TEMPORARY WIRELESS TELECOMMUNICATION FACILITIES

SECTIONS:

- 33.08.01: Approval Required
- 33.08.02: Application Requirements
- 33.08.03: Location
- 33.08.04: Fee
- 33.08.05: Authority to Issue Permit
- 33.08.06: Maximum Duration of Permit

33.08.01: APPROVAL REQUIRED

No person shall place a temporary wireless telecommunications facility within the City without first having been issued an appropriate permit. The responsibility for securing the permit is joint and several of the entity placing wireless telecommunications facility and the owner of the property upon which said facility is being placed.

33.08.02: APPLICATION REQUIREMENTS

To obtain a permit for a temporary wireless telecommunications facility, the applicant shall make application to the Engineering and Inspections Office on a form to be provided by the City. The permit application shall include and/or be accompanied by the following information:

- A. The full name, address and telephone number of the applicant;
- B. The full name, address and telephone number of the owner of the property upon which the temporary facility is to be placed;
- C. A detailed description of the proposed location of the temporary facility;
- D. The proposed time frame, with specific dates during which the temporary facility is to be located upon the property;
- E. A written explanation addressing type of supplemental, temporary service will be provided by the temporary facility;
- F. A written explanation addressing why the additional service is needed during the timeframe requested; and

- G. A statement of approval signed by the appropriate property owners, if applicable.
- H. Documentation including registration number received from the Federal Communications Commission by the applicant verifying the Federal Communications Commission's approval of the facility.

(Section H added effective 8/31/07, Ordinance 2007-24)

33.08.03: LOCATION

Temporary wireless communication facilities shall not be permitted in areas zoned residential or within One Hundred Seventy Five (175) feet of any property within a residential zoned district, unless the applicant provides a statement of approval signed by the owners of all property located within Seven Hundred and Fifty (750) feet of the proposed location.

33.08.04: FEE

The cost of a temporary wireless telecommunication facility permit shall be Two Hundred and Fifty Dollars (\$250.00) and shall be paid at the time of making application.

33.08.05: AUTHORITY TO ISSUE PERMIT

The Building Inspector shall review any completed application submitted pursuant to this Chapter and may issue the permit if all applicable requirements have been satisfied.

The permit shall include the specific timeframe for which the permit was approved and the permit shall expire at midnight on the last day allowed by the permit.

33.08.06: MAXIMUM DURATION OF PERMIT

The maximum duration of any temporary wireless telecommunications permit shall be Forty-five (45) days in any one year period.

33.08.07: MAXIMUM HEIGHT OF TOWER

The maximum height of any temporary telecommunications facility shall be One Hundred and Twenty (120) feet.

**CHAPTER 33.09
APPEAL PROCESS**

Any person aggrieved by a decision of the Building Inspector, City Engineer, Finance Office or other City Department Head made under this Title shall be entitled to have said decision reviewed by the City Council. The process shall be as follows:

- A. Any person aggrieved by a decision of the Building Inspector, City Engineer or other Department Head under this Title may file a notice of appeal with the Finance Officer. There shall be a One Hundred Dollar (\$100.00) fee assessed for filing an appeal, which shall be paid to the Finance Office at the time of filing the notice of appeal.
- B. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Council and a public meeting shall be held within thirty (30) days after the date said appeal was filed. The City Council shall provide notice to the person specifying the time, date, and location of the hearing.
- C. The City Council may notify the aggrieved person of its decision following the hearing; however, the Council shall issue a written decision to the person within twenty (20) days of the hearing. The Council may affirm or reverse the decision of the City Official.

(Title 33 established effective 8/4/07, Ordinance 2007-17)