



City Hall  
208 North First Avenue  
Alpena, Michigan 49707  
[www.alpena.mi.us](http://www.alpena.mi.us)

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## *Planning & Development*

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### **AGENDA**

#### **City of Alpena Planning Commission**

Regular Meeting

Tuesday, July 13, 2021 @ 7:00 p.m.

Alpena, Michigan

**This meeting will be held in Council Chambers as well as virtually.**  
**Please join my meeting from your computer, tablet or smartphone.**  
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CALL TO ORDER:

ROLL CALL:

PLEDGE OF ALLEGIANCE:

APPROVAL OF AGENDA:

APPROVAL OF MINUTES: Meeting June 8, 2021

PUBLIC HEARING AND COMMISSION ACTION:

1. Public hearing for the Zoning Ordinance amendments.

BUSINESS:

COMMUNICATIONS:

REPORTS:

CALL TO PUBLIC:

MEMBERS' COMMENTS:

ADJOURNMENT:



MINUTES  
City of Alpena Planning Commission  
Regular Meeting (Council Chambers and Virtual)  
June 8, 2021  
Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 7:00 p.m. by Paul Sabourin, Planning Commission Chair.

ROLL CALL: PLANNING COMMISSION

PRESENT: Wojda, Vanwagoner, Sabourin, Bauer, Kostelic, Kirshner, Boboltz, Gilmore

ABSENT: Werda

STAFF: Tony Dawson (Building Official), Donald Gilmet (Contractual Staff), Kathleen Sauve (Recording Secretary).

PLEDGE OF ALLEGIANCE:

Pledge of Allegiance was recited.

APPROVAL OF AGENDA:

Agenda was approved as corrected to include Public Hearing.

APPROVAL OF MINUTES:

Meeting May 11, 2021, minutes were approved as printed.

PUBLIC HEARING AND COMMISSION ACTION:

Denise Cline explained the amendments to the Marihuana Ordinance.

As no public attended the hearing, the public hearing was closed by Sabourin.

Boboltz made a motion to approve the amended Marihuana Ordinance.

Wojda seconded the motion.

Motion approved 8-0.

Denise Cline explained the modified amendments to the Zoning Ordinance.

Wojda makes a motion to hold a public hearing on the proposed amendments to the City of Alpena Zoning Ordinance with the exception of those amendments outlined in Section 5.13, which will be reserved for a later time.

Kirschner seconded the motion.

Motion approved 8-0.

Denise Cline then explained the modified amendments to the Blight Ordinance.

Bauer made a motion to submit the modified amended Blight Ordinance to City Council as the Planning Commission's recommendation for approval.

Kostelic seconded the motion.

Motion approved 8-0

BUSINESS: None

COMMUNICATIONS: None

REPORTS: None

MEMBER'S COMMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:30 p.m., by Sabourin, Planning Commission Chair.

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Steve Gilmore, Secretary

Changes are in red or in strikeouts.

**City of Alpena  
Ordinance No. \_\_\_\_ of 2021**

**An ordinance to amend the City of Alpena Zoning Ordinance Article 2 (Construction of Language and Definitions), Article 3 (General Provisions), Article 5 (District Regulations), and Article 7 (Supplemental Development Regulations).**

City of Alpena, Alpena County, Michigan ordains:

**SECTION 1: AMENDMENT TO THE CITY OF ALPENA ZONING ORDINANCE**

That the City of Alpena Zoning Ordinance, Article 2 (Construction of Language and Definitions) is hereby amended to read as follows:

**Section 2.1 Definitions**

**ADULT FOSTER CARE:** ~~See State-Licensed Residential Facility~~

A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

A. The following additional definitions shall apply in the application of this Ordinance.

1. **ADULT DAY CARE FACILITY:** A facility receiving adults for care for periods of less than twenty four (24) hours in a day, for more than two (2) weeks in any calendar year. Care for persons related by blood or marriage to a member of the family occupying the dwelling is excluded from this definition.
2. **ADULT FOSTER CARE FAMILY HOME:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
3. **ADULT FOSTER CARE SMALL GROUP HOME (7-12 ADULTS):** An adult foster care facility with the approved capacity to receive at least seven (7) but not more than twelve (12) adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
4. **ADULT FOSTER CARE LARGE GROUP HOME (13-20 ADULTS):** A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

5. **ADULT FOSTER CARE CONGREGATE FACILITY (MORE THAN 20 ADULTS):** An adult foster care large group home with the approved capacity to receive more than twenty (20) adults to be provided with foster care.
6. **STATE-LICENSED RESIDENTIAL FACILITY (6 OR LESS):** A structure constructed for residential purposes that is licensed by the State pursuant to **1979 PA 218 (Adult Foster Care Licensing Act)**, as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or **1973 PA 116 (Child Care Organizations)**, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services or care for six (6) or fewer individuals under twenty-four (24) hour supervision for persons in need of that supervision or care. **The licensee is NOT a member of the household nor is an occupant of the residence.**

B. An adult foster care facility does not include the following:

1. A nursing home licensed under Article 17 of the **Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260.**
2. A home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260.**
3. A hospital licensed under Article 17 of the **Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260.**
4. A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of community health under the **Mental Health Code, 1974 PA 258, MCL 330.1001 to 330.2106.**
5. A county infirmary operated by a county department of social services or family independence agency under Section 55 of the **Social Welfare Act, 1939 PA 280, MCL 400.55.**
6. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under **1973 PA 116, MCL 722.111 to 722.128**, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:
  - a. Two (2), if the total number of residents is ten (10) or fewer.
  - b. Three (3), if the total number of residents is not less than eleven (11) and not more than fourteen (14).
  - c. Four (4), if the total number of residents is not less than fifteen (15) and not more than twenty (20).
  - d. Five (5), if the total number of residents is twenty-one (21) or more.
7. A foster family home licensed or approved under **1973 PA 116, MCL 722.111 to 722.128**, that has a person who is eighteen (18) years of age or older placed in the foster family home under section 5(7) of **1973 PA 116, MCL 722.115.**

8. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.
9. A facility created by the **Michigan Veteran's Facility Act 1885 PA 152**, MCL 36.1 to 36.12.
10. An area excluded from the definition of adult foster care facility under Section 17(3) of the **Continuing Care Community Disclosure Act, 2014 PA 448**, MCL 554.917
11. A private residence with the capacity to receive at least one (1) but not more than four (4) adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

**INOPERABLE MOTOR VEHICLE:** An inoperable motor vehicle is one that is not capable of travel on public highways due to any of the following:

1. The vehicle does not have a valid and current registration;
2. The vehicle is not licensed for operation upon the highways of the state
3. The vehicle is not operable under its own power because of missing, damaged, or broken equipment.

~~**MDNRE:** Michigan Department of Natural Resources and the Environment or any subsequently named agency.~~

*(Replace all instances of MDNRE with EGLE in Sections 3.21, 3.33, 5.20.C)*

**EGLE:** Michigan Department of the Environment, Great Lakes and Energy or any subsequently named agency (such as the Department of Environmental Quality).

*(Add to Sexually Oriented Businesses definitions)*

**HUMAN:** Besides the customary meaning, the term "human" shall also include non-living anthropomorphic (resembling human) devices, both physical and digital.

**ESCORT AGENCY:** Any business, agency, or person who, for a fee, commission, hire, reward, or profit, furnishes or offers to furnish names of persons, or who introduces, furnishes, or arranges for persons, who may accompany other persons to or about social affairs, entertainments, or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

**SECONDARY ACCESSORY DWELLING UNIT:** An accessory ~~secondary~~ residential dwelling unit is one which is located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. ~~Secondary~~ Accessory dwelling units shall be developed in accordance with the standards set forth in Section 7.32 and only in those zoning districts where the use is listed.

**WIRELESS TELECOMMUNICATION TOWERS AND FACILITIES DEFINITIONS:**

1. **ANTENNA ARRAY**: An Antenna Array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel), ~~and~~ parabolic antenna (disc), **or any other antenna configuration**. The Antenna Array does not include the Support Structure.
8. **SMALL CELL WIRELESS FACILITY**: A wireless facility that meets both of the following requirements:
  - a. Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six (6) cubic feet.
  - b. All other wireless equipment associated with the facility is cumulatively not more than twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

A small cell wireless facility is not considered an accessory building or accessory structure.
9. **SUPPORT STRUCTURE**: A Support Structure is a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, and other similar structures. Any device (Attachment Device) which is used to attach an Attachment Structure shall be excluded from this definition. **Also known as "tower."**
11. **WIRELESS COMMUNICATION FACILITY**: A Wireless Communication Facility is any facility for the transmission and/or reception of wireless communications services, usually consisting of an Antenna Array, connection cables, an Equipment Facility and a Support Structure. A Wireless Communication Facility also includes an Antenna Array attached to an existing building or structure (Attachment Structure).
12. **WIRELESS COMMUNICATION FACILITY (GROUND-MOUNTED) – ALSO CALLED "EARTH STATION OR GROUND STATION"**: A wireless communication facility in which the antenna array is mounted to the ground or any other surface and does not use a Wireless Communications Support Structure (tower).

That the City of Alpena Zoning Ordinance Article 3 (General Provisions) is hereby amended to read as follows:

### Section 3.12 Accessory Uses

#### B. Sale/Storage of Vehicles:

1. A resident of a dwelling unit may have not more than two (2) motorized vehicles for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles.

2. A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property.
3. In no instance shall vehicles for sale be displayed in a front yard other than ~~on~~ **in** the driveway ~~portion of such yard~~.
4. No more than one (1) inoperable vehicle may be stored outside the dwelling or the garage of the dwelling. Any such inoperable vehicle stored outside the dwelling or garage of the dwelling shall not be stored in the front yard and ~~must~~ **shall** be properly covered **with a car cover which is manufactured for that purpose**.
5. Vehicles utilized for demolition derbies, bump and runs, and similar events shall not be stored or repaired in a front or side yard and shall only be stored or repaired in a rear yard. Vehicles used for demolition derbies bump and runs, and similar events shall be screened from view of neighboring property or rights-of-way or shall be kept in an accessory building or attached garage. Vehicles utilized for demolition derbies bump and runs, and similar events shall only be stored/repared on a solid foundation made of concrete or a similar impermeable material (not soil or grass).

#### **Add Section 3.34 Natural Gardens**

All property owners shall conform to the City of Alpena Code of Ordinances Chapter 102, Article III (Noxious Vegetation). Property owners may keep up to twenty-five (25%) percent of their rear yard as a natural garden of unmown vegetation, native to Michigan, for the purpose of providing a natural ecosystem for insects and wildlife. Said natural garden shall maintain side and rear principal building setbacks. At no time shall this natural garden become a nuisance to neighboring property owners due to the proliferation of natural vegetation, insects, or wildlife into the neighboring yards. Unmown vegetation within a natural garden shall not grow to a height greater than four (4) feet.

That the City of Alpena Zoning Ordinance, Article 5 (District Regulations) is hereby amended to read as follows:

Section 5.26 Use Matrix (Communications and Human Care and Social Assistance sections)



TABLE OF PERMITTED USES & SPECIAL LAND USES																		
R = Permitted by right	R1	R2	RT	RM1	RM2	OS1	CBD	CCD	B1	B2	B3	I1	I2	P1	WD	CR	PR	
S = Permitted with a Special Use Permit																		
COMMUNICATIONS																		
Amateur Radio Antennae (roof- or ground-mounted)	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*		R*			R*
Telecommunications Businesses (w/vehicle storage)								S		R	R	R	R					
Television/Radio Broadcasting Stations						R	R	R		R	R	R			R			
Video & Sound Recording Studios						R	R	R		R	R	R			R			
Telecommunications antennas (located on existing attachment structures) 35' or less																		
Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure						R*	R*	R*		R*	R*	R*	R*		R*			
Telecommunication antennas attached to monopole 75' or less						R*	R*			R*	R*	R*	R*		R*			
Wireless communications facilities attached to monopole 75' or less in height																		
Wireless Communications Facility (ground mounted or not mounted to a support structure)											R*	R*	R*					
Telecommunications Towers & Facilities & Alternative Tower Structures (over 75')																		
Wireless Communications Facility with Support Structure (Tower) or Alternative Tower Structures (over 75' in height) or any other type of wireless facility which does not fall under any other category of wireless facility						S*					S*	S*	S*					
Small Cell Wireless Facilities						S*		S*		S*	S*	S*	S*					
HUMAN CARE AND SOCIAL ASSISTANCE																		
Adult Day Care Facilities (in private home)	S	S	S	S	S													
Adult Day Care Facilities (not in private home)	S	S	S	S	S	R			R	R	R							
Adult Foster Care Family Homes (6 or less adults)	R	R	R	R	R													
Adult Foster Care Small Group Home (7-12 adults)	S	S	S	S	S	R		R										
Adult Foster Care Large Group Home (13-20 adults)						R		R										
Adult Foster Care Congregate Facilities (over 20 adults)						R		R										
Assisted Living Home				S*	S*	R*		R*										
Child Day Care Services (see following)																		
Family Child Care Home	R*	R*	R*	R*	R*													
Group Child Care Home	S*	S*	S*	S*	S*													
Child Care Center	S*	S*	S*	S*	S*	R*			R*	R*	R*							
Nursery Schools	S*	S*	S*	S*	S*	R*			R*	R*	R*							
Community/Emergency/ Relief Services						R		R		R	R							
Health Care /Dental /Optical Clinics						R	R	R	R	R	R				R			
Hospitals						S*				S*	S*							
Individual & Family Services						R		R		R	R							
Nursing/Convalescent Home				S*	S*	R*		R*										
Residential Human Care Facility				S*	S*	S*		S*		S*	S*							
State-Licensed Residential Facilities (Adult Foster Care—6 or less adults)	R	R	R	R	R													
Vocational Rehabilitation Services						R		R		R	R							

**Sections 5.7 (R-1 and R-2):**

**B. Uses Permitted by Right & Special Land Uses (Human Care and Social Assistance section)**

R = Permitted by right S = Permitted with a Special Use Permit *Uses with Supplemental Regulations -Article 7	R-1	R-2
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>		
<i>Adult Day Care Facilities (in private home)</i>	S	S
<i>Adult Day Care Facilities (not in private home)</i>	S	S
<i>Adult Foster Care Family Homes (6 or less adults)</i>	R	R
<i>Adult Foster Care Small Group Home (7-12 adults)</i>	S	S
<i>Child Day Care Services (see following)</i>		
Family Child Care Home	R*	R*
Group Child Care Home	S*	S*
Child Care Center or Day Care Center	S*	S*
Nursery Schools	S*	S*
State-Licensed Residential Facilities ( <del>Adult Foster Care - 6 or less adults</del> )	R	R

**Sections 5.9 (RT):**

**B. Uses Permitted by Right & Special Land Uses (Human Care and Social Assistance section)**

R = Permitted by right    S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	RT
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>	
<i>Adult Day Care Facilities (in private home)</i>	S
<i>Adult Day Care Facilities (not in private home)</i>	S
<i>Adult Foster Care Family Homes (6 or less adults)</i>	R
<i>Adult Foster Care Small Group Home (7-12 adults)</i>	S
<i>Child Day Care Services (see following)</i>	
Family Child Care Home	R*
Group Child Care Home	S*
Child Care Center or Day Care Center	S*
Nursery Schools	S*
State-Licensed Residential Facilities ( <del>Adult Foster Care - 6 or less adults</del> )	R

## Sections 5.10 (RM-1 and RM-2):

### B. Uses Permitted by Right & Special Land Uses (Human Care and Social Assistance section)

R = Permitted by right S = Permitted with a Special Use Permit *Uses with Supplemental Regulations -Article 7	RM 1	RM 2
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>		
<i>Adult Day Care Facilities (in private home)</i>	S	S
<i>Adult Day Care Facilities (not in private home)</i>	S	S
<i>Adult Foster Care Family Homes (6 or less adults)</i>	R	R
<i>Adult Foster Care Small Group Home (7-12 adults)</i>	S	S
<i>Assisted Living Home</i>	S*	S*
<i>Child Day Care Services (see following)</i>		
<i>Family Child Care Home</i>	R*	R*
<i>Group Child Care Home</i>	S*	S*
<i>Child Care Center <del>or Day Care Center</del></i>	S*	S*
<i>Nursery Schools</i>	S*	S*
<i>Nursing/Convalescent Home</i>	S*	S*
<i>Residential Human Care Facility</i>	S	S
<i>State-Licensed Residential Facilities (<del>Adult Foster Care - 6 or less adults</del>)</i>	R	R

## Section 5.11 (WD) Waterfront Development District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	WD
<b>COMMUNICATIONS</b>	
<i>Amateur Radio Antennae (roof or ground mounted)</i>	R*
<i>Television/Radio Broadcasting Stations</i>	R
<i>Video &amp; Sound Recording Studios</i>	R
<del>Telecommunications antennas (located on existing attachment structures) 35' or less in height</del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	R*
<del>Telecommunications antennas attached to monopole 75' or less</del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	R*

## Section 5.12 (CBD) Central Business District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

<b>R</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>CBD</b>
<b>COMMUNICATIONS</b>	
<i>Amateur Radio Antennae (roof- or ground-mounted)</i>	<b>R*</b>
<i>Television/Radio Broadcasting Stations</i>	<b>R</b>
<i>Video &amp; Sound Recording Studios</i>	<b>R</b>
<del><i>Telecommunications antennas (located on existing attachment structures) 35' or less in height</i></del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<del><i>Telecommunication antennas attached to monopole 75' or less in height</i></del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	<b>R*</b>

## Section 5.14 (CCD) Commercial Corridor District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

<b>R</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>CCD</b>
<b>COMMUNICATIONS</b>	
<i>Amateur Radio Antennae (roof- or ground-mounted)</i>	<b>R*</b>
<i>Telecommunications Businesses (w/vehicle storage)</i>	<b>S</b>
<i>Television/Radio Broadcasting Stations</i>	<b>R</b>
<i>Video &amp; Sound Recording Studios</i>	<b>R</b>
<del><i>Telecommunications antennas (located on existing attachment structures) 35' or less in height</i></del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<i>Small Cell Wireless Facilities</i>	<b>S*</b>

<b>R</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>CCD</b>
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>	
<i>Adult Foster Care Small Group Home (7-12 adults)</i>	<b>R</b>
<i>Adult Foster Care Large Group Home (13-20 adults)</i>	<b>R</b>
<i>Adult Foster Care Congregate Facilities (over 20 adults)</i>	<b>R</b>
<i>Community/Emergency/ Relief Services</i>	<b>R</b>
<i>Assisted Living Home</i>	<b>R*</b>
<i>Health Care /Dental /Optical Clinics</i>	<b>R</b>
<i>Individual &amp; Family Services</i>	<b>R</b>
<i>Nursing/Convalescent Home</i>	<b>R*</b>
<i>Residential Human Care Facility</i>	<b>S*</b>
<i>Vocational Rehabilitation Services</i>	<b>R</b>

## Section 5.15 (OS-1) Office Service District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>OS1</b>
<b>COMMUNICATIONS</b>	
Amateur Radio Antennae (roof- or ground-mounted)	<b>R*</b>
Television/Radio Broadcasting Stations	<b>R</b>
Video & Sound Recording Studios	<b>R</b>
<del>Telecommunications antennas (located on existing attachment structures) 35' or less in height</del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<del>Telecommunication antennas attached to monopole 75' or less in height.</del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	<b>R*</b>
<del>Telecommunications Towers &amp; Facilities &amp; Alternative Tower Structures (over 75' in height)</del> <i>Wireless Communications Facility with Support Structure (Tower) or Alternative Tower Structures (over 75' in height) or any other type of wireless facility which does not fall under any other category of wireless facility</i>	<b>S*</b>
<i>Small Cell Wireless Facilities</i>	<b>S*</b>

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>OS1</b>
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>	
<i>Adult Day Care Facilities (not in private home)</i>	<b>R</b>
<i>Adult Foster Care Small Group Home (7-12 adults)</i>	<b>R</b>
<i>Adult Foster Care Large Group Home (13-20 adults)</i>	<b>R</b>
<i>Adult Foster Care Congregate Facilities (over 20 adults)</i>	<b>R</b>
Assisted Living Home	<b>R*</b>
Child Day Care Services (see following)	
Child Care Center <del>or Day Care Center</del>	<b>R*</b>
Nursery Schools	<b>R*</b>
Community/Emergency/ Relief Services	<b>R</b>
Health Care /Dental /Optical Clinics	<b>R</b>
Hospitals	<b>S*</b>
Individual & Family Services	<b>R</b>
Nursing/Convalescent Home	<b>R*</b>
Residential Human Care Facility	<b>S*</b>
Vocational Rehabilitation Services	<b>R</b>

## Section 5.16 (B-1) Local Business District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>B1</b>
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>	
<i>Adult Day Care Facilities (not in private home)</i>	<b>R</b>
Child Day Care Services (see following)	
Child Care Center or Day Care Center	<b>R*</b>
Nursery Schools	<b>R*</b>
Health Care /Dental /Optical Clinics	<b>R</b>

## Section 5.17 (B-2) General Business District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>B2</b>
<b>COMMUNICATIONS</b>	
Amateur Radio Antennae (roof- or ground-mounted)	<b>R*</b>
Telecommunications Businesses (w/vehicle storage)	<b>R</b>
Television/Radio Broadcasting Stations	<b>R</b>
Video & Sound Recording Studios	<b>R</b>
<del>Telecommunications antennas (located on existing attachment structures) 35' or less in height</del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<del>Telecommunication antennas attached to monopole 75' or less in height</del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	<b>R*</b>
Small Cell Wireless Facilities	<b>S*</b>

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>B2</b>
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>	
<i>Adult Day Care Facilities (not in private home)</i>	<b>R</b>
<i>Child Day Care Services (see following)</i>	
<i>Child Care Center <del>or Day Care Center</del></i>	<b>R*</b>
<i>Nursery Schools</i>	<b>R*</b>
<i>Community/Emergency/ Relief Services</i>	<b>R</b>
<i>Health Care /Dental /Optical Clinics</i>	<b>R</b>
<i>Hospitals</i>	<b>S*</b>
<i>Individual &amp; Family Services</i>	<b>R</b>
<i>Residential Human Care Facility</i>	<b>S*</b>
<i>Vocational Rehabilitation Services</i>	<b>R</b>

## Section 5.18 (B-3) Commercial District:

### B. Uses Permitted by Right & Special Land Uses (Communications and Human Care and Social Assistance sections)

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>B3</b>
<b>COMMUNICATIONS</b>	
Amateur Radio Antennae (roof or ground mounted)	<b>R*</b>
Telecommunications Businesses (w/vehicle storage)	<b>R</b>
Television/Radio Broadcasting Stations	<b>R</b>
Video & Sound Recording Studios	<b>R</b>
<del>Telecommunications antennas (located on existing attachment structures) 35' or less in height</del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<del>Telecommunication antennas attached to monopole 75' or less in height</del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	<b>R*</b>
<i>Wireless Communications Facility (ground mounted or not mounted to a support structure)</i>	<b>R*</b>
<del>Telecommunications Towers &amp; Facilities &amp; Alternative Tower Structures (over 75' in height)</del> <i>Wireless Communications Facility with Support Structure (Tower) or Alternative Tower Structures (over 75' in height) or any other type of wireless facility which does not fall under any other category of wireless facility</i>	<b>S*</b>
Small Cell Wireless Facilities	<b>S*</b>

R = Permitted by right S = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>B3</b>
<b>HUMAN CARE AND SOCIAL ASSISTANCE</b>	
<i>Adult Day Care Facilities (not in private home)</i>	<b>R</b>
<i>Child Day Care Services (see following)</i>	
<i>Child Care Center <del>or Day Care Center</del></i>	<b>R*</b>
<i>Nursery Schools</i>	<b>R*</b>
<i>Health Care /Dental /Optical Clinics</i>	<b>R</b>
<i>Hospitals</i>	<b>S*</b>
<i>Community/Emergency/ Relief Services</i>	<b>R</b>
<i>Individual &amp; Family Services</i>	<b>R</b>
<i>Residential Human Care Facility</i>	<b>S*</b>
<i>Vocational Rehabilitation Services</i>	<b>R</b>

## Section 5.19 (I-1) Light Industrial District:

### B. Uses Permitted by Right & Special Land Uses (Communications section)

<b>R</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>I1</b>
<b>COMMUNICATIONS</b>	
<i>Amateur Radio Antennae (roof or ground mounted)</i>	<b>R*</b>
<i>Telecommunications Businesses (w/vehicle storage)</i>	<b>R</b>
<i>Television/Radio Broadcasting Stations</i>	<b>R</b>
<i>Video &amp; Sound Recording Studios</i>	<b>R</b>
<del>Telecommunications antennas (located on existing attachment structures) 35' or less in height</del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<del>Telecommunication antennas attached to monopole 75' or less in height.</del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	<b>R*</b>
<i>Wireless Communications Facility (ground mounted or not mounted to a support structure)</i>	<b>R*</b>
<del>Telecomm. Towers/Facil./Alt. Tower Structures &gt;75'</del> <i>Wireless Communications Facility with Support Structure (Tower) or Alternative Tower Structures (over 75' in height) or any other type of wireless facility which does not fall under any other category of wireless facility</i>	<b>S*</b>
<i>Small Cell Wireless Facilities</i>	<b>S*</b>

## Section 5.20 (I-2) General Industrial District:

### B. Uses Permitted by Right & Special Land Uses (Communications section)

<b>R</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit *uses with Supplemental Regulations -Article 7	<b>I2</b>
<b>COMMUNICATIONS</b>	
<i>Amateur Radio Antennae (roof or ground mounted)</i>	<b>R*</b>
<i>Telecommunications Businesses (w/vehicle storage)</i>	<b>R</b>
<del>Telecommunications antennas (located on existing attachment structures) 35' or less in height</del> <i>Wireless communication and supporting equipment facilities located on existing attachment structures where antenna is 35' or less above the highest point of the existing structure</i>	<b>R*</b>
<del>Telecommunication antennas attached to monopole 75' or less in height.</del> <i>Wireless communications facilities attached to monopole 75' or less in height</i>	<b>R*</b>
<i>Wireless Communications Facility (ground mounted or not mounted to a support structure)</i>	<b>R*</b>
<del>Telecommunications Towers &amp; Facilities &amp; Alternative Tower Structures (over 75' in height)</del> <i>Wireless Communications Facility with Support Structure (Tower) or Alternative Tower Structures (over 75' in height) or any other type of wireless facility which does not fall under any other category of wireless facility</i>	<b>S*</b>
<i>Small Cell Wireless Facilities</i>	<b>S*</b>

That the City of Alpena Zoning Ordinance, Article 7 (Supplemental Development Regulations) is hereby amended to read as follows:

**Section 7.32 Secondary ~~Accessory~~ Dwelling Units**



The purpose of this section is to allow a minor amount of space within a dwelling to be rented or leased as separate living quarters for extended family or non-family members in all residential neighborhoods within the City. These provisions are further intended to provide reasonable control in recognition of the high percentage of owner occupied single family homes in the City. The purpose of these standards is also to prevent the undesirable proliferation of permanent two-family units which would, over time, disrupt the character of single family neighborhoods. The following regulations shall apply:

- A. One (1) ~~secondary~~ **accessory** dwelling unit is allowed per lot.
- B. The ~~secondary~~ **accessory** dwelling unit shall be rented or leased so the tenants are permanent residents rather than transients.
- C. The ~~secondary~~ **accessory dwelling** unit shall not exceed six hundred (600) square feet or twenty-five (25) percent of the total floor area of the home, whichever is less, so that it remains an accessory use to the primary dwelling and does not result in the creation of a duplex or apartment building.
- D. The ~~secondary~~ **accessory** dwelling unit shall be provided electricity, plumbing, and heat.
- E. The ~~secondary~~ **accessory dwelling** unit shall contain only one (1) bedroom.
- F. The ~~secondary~~ **accessory dwelling** unit shall be a self-contained unit and shall be:
  - 1. located above a garage, or
  - 2. attached to the primary dwelling or garage, or
  - 3. totally within a primary dwelling, or
  - 4. a detached stand-alone structure.
- G. The ~~secondary~~ **accessory dwelling** unit shall have a separate exterior entrance which shall not be visible from the front yard.
- H. The residents of the primary structure shall maintain the ~~secondary~~ **accessory dwelling** unit and shall ensure that no excessive noise, traffic, or blight occurs on the property.
- I. The ~~secondary~~ **accessory dwelling** unit shall conform to the building code standards adopted by the City.
- J. One and one-half (1 ½ ) parking spaces shall be provided on-site for each dwelling unit.
- K. **Detached Stand-Alone Structures** shall be considered accessory structures. The following regulations shall apply:
  - 1. Such structures shall be located in the rear yard and shall be consistent in appearance with the principal structure.
  - 2. Such structures shall be a maximum of six hundred (600) square feet in size with a minimum



width of twenty (20) feet.

3. The property owner must reside on-site.
4. Separate water and sewer service must be provided.

### **Section 7.37 Telecommunications Wireless Facilities**

#### **A. PURPOSE**

The purpose and intent of these regulations pertaining to wireless telecommunications facilities including towers, antennas and structures (accessory buildings, structures, WIFI, antennas and other ground or pole mounted appurtenances) is to establish general guidelines for their location within the City and on individual lots or parcels. The City recognizes that it is in the public interest to permit the location of these facilities within its jurisdiction, while also recognizing the need to protect the adjacent and nearby properties from potential health, safety and aesthetic impacts that may result from the construction of such facilities. As such, these regulations seek to:

1. Protect residential areas from potential adverse impact of ~~wireless facilities towers and antennas~~;
2. Encourage the location of ~~towers~~ wireless facilities in nonresidential areas;
3. Minimize the total number of towers throughout the community;
4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
5. Encourage developers of ~~towers and antennas~~ wireless facilities to configure them in a way that minimizes their adverse visual impact;
6. Enhance the ability of providers of telecommunication wireless services to provide such services to the community quickly, effectively, and efficiently;
7. Consider the public health and safety of telecommunication towers and alternative tower structures wireless facilities; and
8. Avoid potential damage to adjacent property from tower failure.
9. Amateur radio antenna: See §7.3.

#### **B. TELECOMMUNICATION WIRELESS FACILITIES PERMITTED BY RIGHT WITH ADMINISTRATIVE REVIEW**

The following telecommunication wireless facilities shall be permitted by right following administrative review:

1. Wireless telecommunication antennas and supporting equipment facilities located on existing attachment structures within the OS-1, B-2, B-3, CBD, WD, CCD, I-1 and I-2 districts. Such

antenna shall not extend more than thirty-five (35) feet above the highest point of the existing structure. Supporting equipment facilities shall be located within an enclosed structure and screened as necessary in accordance with the requirements of these regulations.



2. Wireless ~~telecommunication~~ facilities attached to a monopole of seventy-five (75) feet or less in height and in compliance with the development standards of this Section within the OS-1, B-2, B-3, CBD, WD, I-1 and I-2 districts. An increase in total height by up to 20 feet may be approved upon review and approval by the Planning Commission following a determination that the additional height is necessary and will not negatively impact the neighborhood in which it is located.



3. Wireless ~~telecommunication~~ facilities co-located on an existing supporting structure approved for co-location and with sufficient space available for the additional equipment.
4. Wireless ~~telecommunications~~ antennas and supporting appurtenances located on existing utility poles located with public rights-of-ways or within dedicated easements, or on private buildings or structures approved by City staff (WIFI and other similar telecommunications technology).
5. Administrative decisions may be appealed to the **Zoning Board of Appeals**, which shall render a decision following a public hearing in accordance with **§9.6**.

### C. PLANNING COMMISSION REVIEW

All ~~wireless telecommunication~~ facilities not permitted by right shall require review and approval by the Planning Commission as a Special Use based on the following considerations:

1. Whether the facility offers opportunities for co-location.
2. Whether all applicable development standards are met.
3. Compatibility of the facility with existing uses located on the site and surrounding properties.
4. The extent to which granting the Special Use would substantially serve the public safety and welfare.
5. The suitability of the site for the proposed use.
6. Demonstration of need for the facility to be located at the subject site.

7. Whether conditions may be imposed by the Planning Commission or commitments made by the applicant which are sufficient to mitigate any potential adverse effects on neighboring properties identified during the review process.
8. Other factors that the Planning Commission may deem relevant.

Such Special Uses may be permitted in the OS-1, B-3, I-1 and I-2 districts (with the exception of Wireless Communications Facilities (ground-mounted) which are not allowed in OS-1).



#### D. APPROVAL PROCESS

An application for approval of Wireless Communications Facilities described in subsection C above shall include all information required by **subsection F (below)**.

1. After an application is filed, the Zoning Administrator shall determine whether the application is administratively complete. The application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.
2. If, before the expiration of the 14-day period under **subsection D.1**, the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under **subsection D.1** is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification.
3. **Administratively-Approved Wireless Communications Facilities.** After the application is deemed complete, the Zoning Administrator shall review the application and issue a zoning permit if all standards are met.
4. **Planning Commission-Approved Wireless Communications Facilities.**
  - a. After the application is deemed complete, a public hearing shall be held for wireless communications that are listed as a Special Land Use. The notice of the public hearing shall be given pursuant to **Section 9.6**.
  - b. The Planning Commission shall conduct a site plan review using the standards in **Section 6.6, Section 6.12 (for Special Land Uses)**, and **subsection E** below. The Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

#### E. DEVELOPMENT STANDARDS

Notwithstanding any provision of this Zoning Ordinance, the following development standards shall apply to all Wireless Communication Facilities.

#### **1. TOWER DESIGN**

All ground mounted towers shall be either a self-supporting lattice or monopole design. Ground mounted towers requiring guy wires shall not be permitted. Guy wires for the support of antennas located on the rooftops of buildings or on water towers may be approved upon review by staff or the Planning Commission.

#### **2. HEIGHT**

The maximum height of any Wireless Communications Facility shall be two hundred (200) feet above surface grade.

#### **3. LOCATION ON PROPERTY**

Wireless Communication Facilities with ground mounted towers shall be located in the rear yards of property. If no principal structure is located on the property, the Facility shall be located in the rear one-third (1/3) of the property.

#### **4. SETBACKS**

- a. **From Residential Districts:** Towers shall be located from any residential district a distance equal to twice the height of the proposed structure.
- b. **From Property Lines and Primary Electric Transmission Lines:** Towers shall be setback a minimum distance from adjoining properties and primary electric transmission lines equal to the height of the structure including antennas.
- c. **Ground Mounted Facilities/Other.** Ground-Mounted wireless communications facilities and other wireless communications facilities shall be set back at least one hundred seventy-five (175) feet from the outside edge of the equipment enclosure to each property line.
- d. The Planning Commission may reduce the setbacks specified in 4.a., 4.b, and 4.c above at its discretion based on a demonstrated need by the applicant and a determination that the health and safety of the public and adjacent properties is adequately protected.

#### **5. FENCING AND LANDSCAPING**

- a. **Fencing:** A solid fence/wall 8-feet in height constructed of painted, stained or treated lumber, textured concrete block or brick shall enclose the facility, including a locking gate complementary in design and color to the fence/wall. The enclosure shall be maintained in good repair.
- b. **Landscaping:** There shall be a minimum 4-foot wide landscape strip along the perimeter of the fence enclosure consisting of shrubs, flowers, groundcover and/or trees. This requirement may be waived or reduced if the enclosure is deemed to be adequately screened by existing vegetation and/or structures.

## **6. SIGNAGE**

No signs other than signs required pursuant to federal, state or local law and ordinance shall be allowed on an antenna or tower or site.

## **7. AESTHETICS, PLACEMENT, MATERIALS AND COLORS**

Wireless Communication Facilities shall be designed to be compatible with the existing structures and its surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the Wireless Communications Facility, the use of compatible or neutral colors, or camouflage technology. Contrary color schemes shall be permitted only if mandated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) or Michigan Aeronautics Commission (MAC). Written proof of such requirement shall be provided by the applicant.

## **8. LIGHTING**

Wireless Communication Facilities shall not be artificially illuminated, directly or indirectly except for security and safety lighting, and other illumination as may be required by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) or Michigan Aeronautics Commission (MAC) or other applicable authority. All lighting shall be installed in a manner that will minimize impacts on adjacent properties. Lighting shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or Federal regulations. Lighting may consist of a red top light that does not pulsate or blink.

## **9. MAINTENANCE INSPECTIONS**

All guyed towers, including those installed prior to this ordinance, shall be inspected every two years. Self-supporting towers shall be inspected every four years. Each inspection shall be by a qualified professional engineer or other qualified inspector, and any inspector-recommended repairs and/or maintenance should be completed without unnecessary delay. A copy of the final inspection report shall be filed with the Building Official. At a minimum each inspection shall include the following:

- a. **Tower structure:** Including bolts, loose or damaged members, signs of unusual stress or vibration.
- b. **Guy wires and fittings:** Check for age, strength rust, wear, general condition and any other signs of possible failure.
- c. **Guy anchors and foundations:** Assess for cracks in concrete, signs of corrosion, erosion, movement, secure hardware, and general site condition.
- d. **Condition** of antennas, transmission lines, lighting, painting, insulators, fencing, grounding, and elevator, if any.
- e. **For guyed towers:** Tower vertical alignment and guy wire tension (both required tension and present tension).

## **10. RADIO FREQUENCY EMISSIONS/SOUND**

The following radio frequency emissions standards shall apply to all Wireless Communications Facility installations.

- a. **Radio Frequency Impact:** The FTA gives the FCC Jurisdiction of the regulation of Radio Frequency (RF) emissions, and Wireless Communications Facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
- b. **FCC Compliance:** In order to provide information to its citizens, copies of ongoing FCC information concerning Wireless Communications Facilities and RF emissions standards may be requested. Applicants for Wireless Communications Facilities shall be required to provide information with the application on the measurement of the effective radiated power of the facility and how this meets the FCC standards.

## **11. SOUND PROHIBITION**

No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

## **12. STRUCTURAL INTEGRITY**

Wireless Communications Facilities with Support Structures shall be constructed to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Support Structures" (or equivalent), as may be updated and amended. Each Support Structure shall be capable of supporting multiple antenna arrays.

## **13. HISTORIC DISTRICTS AND DOWNTOWN DEVELOPMENT AUTHORITY DISTRICTS**

- a. **Historic Districts:** Any Wireless Communication Facility proposed to be located within an established Historic District, including single site historic designations shall be subject to review by the City Historic District Commission (HDC). Review by the HDC shall be in accordance with procedures for a Certificate of Appropriateness. No administrative or Planning Commission review and action may occur unless a Certificate of Appropriateness has been granted.
- b. **Downtown Development Authority (DDA) District:** Any Wireless Communication Facility proposed to be located within the DDA District shall be subject to review by the DDA Board. No administrative or Planning Commission review and action may occur until a recommendation from the DDA is provided. Such recommendation shall be provided within thirty (30) days of its submittal by staff, otherwise the necessary review may proceed without DDA input.

## **F. APPLICATION REQUIREMENTS**

All requests for a Zoning Permit or Special Use Permit regardless of Wireless Communications Facility type, including but not limited to a Temporary Wireless Communication Facilities, shall submit an application in accordance with the requirements of this section.

### **1. Application Contents**

Each applicant requesting a Wireless Communication Facility or Temporary Wireless Communication Facility shall submit a complete set of drawings prepared by a licensed architect and/or engineer that will include a site plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the wireless

communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, curb cuts, parking, stormwater retention, screening and landscaping. Applicants proposing to co-locate on an existing wireless communication facility shall include a Determination of Radio Frequency Compatibility with their application. The application shall be signed by both the Wireless Communication Facility owner and the property owner, if different.

**2. Ownership**

The Applicant shall provide documentation to the Planning Commission that clearly establishes the legal ownership of the tower. The applicant, its agents, successors, and assigns shall provide written notice to the Planning Staff of any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.

**3. Proof of Filing FAA Form 7460-1, or as amended**

A letter of receipt from the Federal Aviation Administration (FAA) providing proof of filing FAA Form 7460-1 and indicating the assigned AGL/File Number must be submitted along with application for all Wireless Communication Facilities within twenty thousand (20,000) feet of any airport runway, that exceed one hundred (100) feet in height.

**4. Existing Network Locations**

If a proposed Wireless Communication Facility is part of a larger network of similar facilities, a geographic and written depiction of all locations in this network shall accompany the petition for a proposed Wireless Communication Facility.

**5. Affidavits of Co-location Agreement**

All applicants for Wireless Communication Facilities must sign and provide the City of Alpena an Affidavit (if applicable) indicating:

- a. That no other co-location opportunities exist within a one-mile radius of the proposed facility, including proof that a good faith effort has been made; names, addresses, and telephone numbers of all owners of Wireless Communication Facilities to whom inquiries have been made; and
- b. Agreement to allow and reasonably market co-location (if applicable) of other Wireless Communication Facility users at rates that are comparable and competitive to those charged for location at comparable Wireless Communication Facilities. The statement shall include the applicant's policy regarding co-location of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged to other providers. The Co-location Agreement shall be considered a condition of issuance of a Zoning Permit.

**6. Application Fees**

A plan review fee (administrative review) and a Determination of Radio Frequency Compatibility review fee (co-location applicants only), per the adopted Council Fee Schedule, shall accompany each application.

**7. Technical Assistance**

In the course of its consideration of an application, the Zoning Administrator, the Planning Commission or the Zoning Board of Appeals may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of Wireless

Communication Facilities (chosen by the City) to assist the City in the technical aspects of the application. In such cases, any additional reasonable costs incurred by the City not to exceed three thousand dollars (\$3,000) for the technical review and recommendation shall be reimbursed provided in the form of a cashier's check or money order by the applicant prior to the final hearing on filing a petition for the proposed Wireless Communication Facility.

#### **G. CO-LOCATION POLICY**

All new wireless communication facilities requiring a Special Use permit shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to co-locate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities. A Special Use permit shall not be issued until the applicant proposing a new wireless communication facility shall demonstrate that it has made a reasonable good faith attempt to locate its Wireless Communication Facility onto an existing structure. Competitive conflict and financial burden are not deemed to be adequate reasons against co-location.

All Wireless Communication Facilities with support structure up to a height of 150 feet shall be engineered and constructed to accommodate at least three (3) antenna array. All Wireless Communication Facilities with support structures greater than 150 feet in height shall be engineered and constructed to accommodate at least four (4) antenna array.

#### **H. REMOVAL OF ABANDONED WIRELESS COMMUNICATIONS FACILITIES**

Any Wireless Communication Facility that ceases operation for a continuous period of twelve (12) months shall be considered abandoned, and the City, at its election, may require the Wireless Communication Facility owner, or the property owner if the facility owner cannot be located or is no longer in business, to remove the Wireless Communication Facility within 90 days after notice from the City to remove the facility. If the abandoned Wireless Communication Facility is not removed within 90 days, the City may remove it and recover its costs from the facility's owner. At the time of construction the City may require a bond or letter of credit equal to the estimated cost to remove the tower. Such bond or letter of credit shall be of such duration, including renewals, equal to the estimated life of the tower. In the event the City does not require a bond or letter of credit, or the cost of removal exceeds the bond or letter of credit, the City shall invoice the owner for the amount due, and if not paid may be placed as a lien on the facility's property taxes.

If there are two or more users of a single Wireless Communication Facility, this provision shall not become effective until all providers cease to use the facility. If the owner of an abandoned Wireless Communication Facility cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the Wireless Communication Facility is located.

#### **I. REVOCATION PROCEDURE**

Any Zoning or Special Use Permit issued for a Wireless Communication Facility pursuant to this Section may be revoked after a hearing as provided hereinafter. If the Planning and Zoning Staff finds that a permit holder has violated any provision of this Section, or has failed to make good faith reasonable efforts to provide or seek collocation, the Planning and Zoning Staff shall notify the permit holder in writing of the violations. The notice shall include the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed sixty (60) days. The permit holder shall provide the City with evidence that the required corrective action has been taken. Should the permit holder fail to



correct any deficiencies in the time required, staff shall forward the violation to the Planning Commission for consideration, including a recommendation as to whether the permit should be revoked. The Planning Commission shall convene a public hearing pursuant to [§9.6](#) of this Ordinance to consider revocation of the permit. After the appropriate public hearing, the Planning Commission may revoke the permit upon such terms and conditions, if any, that they may determine.

J. **ZBA:** See [§8.2 \(F\)](#)

K. **Small Cell Wireless Facilities.**



1. **Exempt Small Cell Wireless Facilities.** The co-location of a small cell wireless facility and associated support structure within a public right of way (ROW) is not subject to zoning reviews or approvals under this Ordinance to the extent it is exempt from such reviews under the **Small Wireless Communications Facilities Deployment Act, 2018 PA 365**, as amended. In such case, a utility pole in the ROW may not exceed forty (40') feet above ground level and a small cell wireless facility in the ROW shall not extend more than five (5') feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.
2. **Special Land Use Approval for Non-Exempt Small Cell Wireless Facilities.** The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with **2018 PA 365**, as amended shall be subject to review and approval by the Planning Commission as a Special Land Use in accordance with the following procedures and standards:
  - a. The processing of an application is subject to all of the following requirements:
    - (1) Within thirty (30) days after receiving an application under this Section, the Planning Staff shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.
    - (2) The running of the time period tolled under **subsection (1)** resumes when the applicant makes a supplemental submission in response to the Planning staff's notice of incompleteness.
    - (3) The Planning Commission shall approve or deny the Special Land Use application and notify the applicant in writing within ninety (90) days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or one hundred fifty (150) days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and Planning Commission.
  - b. The Planning Commission shall base their review of the request on the standards contained in **Sections 6.6** and **Section 6.12** provided, however, that a denial shall comply with all of the following:

- (1) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.
  - (2) There is a reasonable basis for the denial.
  - (3) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.
- c. In addition to the provisions set forth in **subsection b**, in the Planning Commission's review:
- (1) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.
  - (2) An applicant shall not be required to submit information about its business decisions with respect to any of the following:
    - (a) The need for a wireless support structure or small cell wireless facilities.
    - (b) The applicant's service, customer demand for the service, or the quality of service.
  - (3) The Planning Commission may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.
  - (4) The Planning Commission may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.
- d. Within one (1) year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the Planning Commission and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required, the zoning approval is void.

#### **L. Exemptions (Single-Use Towers and Masts).**

Antenna towers and masts erected and operated as a residential or commercial accessory use serving only that property (devices covered by 47 CFR Section 1.4000) are exempt from this Section. An amateur radio service station antenna structure is regulated by **Section 7.3**. Other wireless structures may be erected at the minimum heights and dimensions sufficient to accommodate other such wireless transmissions. See **Over-the-Air Reception Devices (47 CFR Section 1.4000)**. Single-use tower and masts shall comply with all FCC rules and regulations in effect at the time they are erected. Property owners who erect single-use towers and masts shall notify the City prior to erecting such a tower. This

exemption does not cover antennas used to transmit signals to and/or receive signals from multiple customer locations.

## **SECTION 2: SEVERABILITY**

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

## **SECTION 3: SAVING CLAUSE**

The City of Alpena Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

## **SECTION 4: EFFECTIVE DATE**

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

I, \_\_\_\_\_, Clerk for the City of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_ of 2021 of the City of Alpena, adopted by at a meeting of the Alpena City Council held on \_\_\_\_\_.

A copy of the complete ordinance text may be inspected or purchased at the Alpena City Hall, at 208 N. First Avenue, Alpena, Michigan.

Adopted: \_\_\_\_\_ Published: \_\_\_\_\_ Effective: \_\_\_\_\_, subject to PA 110 of 2006 as amended.