

3.11 Checklist

Special Use Permit – Wireless Telecommunication Facilities

See UDC Section 50-37.10 for more information. Review this information before submitting any pre-application materials for any specific site.

Process for a Special Use Permit

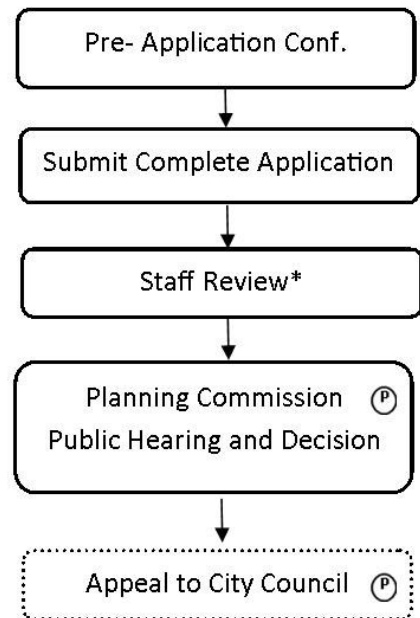
A special use permit (SUP) is required for all new towers and wireless communication facilities, including micro/small cell systems and for all modification of existing towers and wireless facilities where there is a visible change to physical and visually discernable components of the facility, for new or visible changes to antennas, cables, equipment shelters, landscaping, fencing, for changes to parking or to access, for co-location, including equipment upgrades, and for changes in colors or materials. Micro/small cell systems proposed in public right of way shall submit a concurrent use permit application instead of a special use permit.

Applications for a new wireless telecommunication facility, or modification of an existing facility, are reviewed and approved/denied by the Planning Commission, with the two following exceptions:

Exception 1. A special use permit is required for colocation on an existing wireless telecommunication facilities, but may be approved by City staff (Land Use Supervisor), if the colocation would not substantially change the physical dimensions of the wireless telecommunication facility. Substantial change is defined as

- (i) the mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- (ii) the mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- (ii) the mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- (iv) the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property; or
- (v) the mounting of the proposed antenna would defeat the concealment elements of the eligible support structure; or
- (vi) the mounting of the proposed antenna would not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

Special Use Permit; Wireless Telecommunication Facility



(P) Public Hearing

* Some Applications May be Approved by Staff

Exception 2. A Special Use Permit is not required for the replacement of any components of an existing legal wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything, nor is a Special Use Permit required for upgrades or changeouts of equipment or antennas where the replacement is of similar size and appearance. A building permit may be required, however.

Application Materials

Call 218-730-5580 or email planning@duluthmn.gov to schedule a pre-application meeting. Prior to the actual meeting, the City may require that funds be placed in escrow to pay for technical review of the application.

- Submit your application materials by the Planning Commission application deadline. There are numerous in-person and electronic application methods available; visit <https://duluthmn.gov/planning-development/land-use-zoning-and-applications/applications-checklists/> for current information. An application is not complete unless all the items required by the UDC are addressed. Incomplete applications will be returned to the applicant. **Schedule the pre-application meeting before proceeding with detailed site or construction plans; based on the citing criteria, proposed locations may need to be amended and/or the search ring for eligible locations expanded.**

Your application must include the following:

- Application Cover Sheet, available at <https://duluthmn.gov/planning-development/land-use-zoning-and-applications/applications-checklists/>, and required application fee
- Required escrow (as applicable)
- Responses to items listed in Section 50-20.4.E, Major Utility or Wireless Telecommunications Facility.
- Application materials in the list below
- Note: this list is not all-inclusive and additional information may be required; prior to submitting an application review UDC Section 50-20.4.E.

- 1 Staff Review/Non-Substantial Change.** If the applicant requests staff review and approval of the Special Use Permit application because it does not substantially change the physical dimensions of the facility, a statement is needed demonstrating how it meets that criteria in the ordinance (paraphrased in Exception 1 above).
- 2 Siting Criteria.** Documentation is needed verifying that the applicant has reviewed the ordinance, understands the citing criteria, and is in compliance. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site. If the application is on an existing legal telecommunications site, a simple written statement is needed stating such.
- 3 Right to Proceed.** Documentation verifying the applicant's right to proceed as proposed on the site. An executed copy of the lease with the landowner or landlord (sensitive information such as dollar amounts may be redacted) or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
- 4 Operation in Safe Manner.** A written statement is required stating that
A That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without

exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and federal laws, rules and regulations.

B That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to, the fact that the applicant is authorized to do business in the State.

5 Description of Project. A descriptive written statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements. This is required for all new facilities.

6 Need for Facility. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the city. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage. This is not required for collocation on an existing legal site that meets criteria in the ordinance (paraphrased in Exception 1 above).

7 General Site Information. Required for all applications.

A The name, address, and phone number of the property owner and applicant, including the legal name of the applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner.

B. The zoning district or designation in which the property is situated.

C. The location, size and height of all existing and proposed structures on the property.

D. The type, locations and dimensions of all existing landscaping and fencing.

E. The type, locations and dimensions of all proposed landscaping and fencing.

F. The size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines (only required for new telecommunication sites).

G. The location of nearest residential structure (only required for new telecommunication sites).

8 Site Appearance. Required for all applications. Applicant will submit pictures showing the current condition of the site pre-application. These pictures will show required screening, safety signs, security measures, etc. Good visual documentation of the current site conditions will help the City determine what additional conditions (if any) to apply to the special use permit.

9 Specific Project Information. Required for all applications. Can be included in the draft construction drawings.

A The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure

B The number, type and model of the antenna(s) proposed with a copy of the specification sheet

C The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users

D A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting

E The frequency, modulation and class of service of radio or other transmitting equipment;

F The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;

10 RF Emissions, Compliance With FCC RF Guidelines. Signed documentation such as the "Checklist to Determine Whether a facility is Categorical Excluded" found in Appendix A of the FCC publication titled "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures and Practical Guidance" dated June 2, 2000 to verify that the wireless

telecommunication facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;

- 11 RF Emissions, Statement of Non Interference.** A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices
- 12 FCC License.** A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities
- 13 Geotechnical.** A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design. This is not required for existing sites on rooftops.
- 14 Structural Analysis.** Certification documentation of structural analysis, including calculations that the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all City, State and federal structural requirements for loads, including wind and ice loads
- 15 Compliance with FAA Regulation Part 77.** A written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with FAA Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application
- 16 Colocation or Modification of Existing Facility.** If the proposal is for a co-location or modification on an existing facility, the applicant is to provide signed documentation of the tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version;
- 17 Screening.**
 - A A demonstration that the facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the wireless telecommunications facility;
 - B A written description and drawing showing how the applicant shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility
- 18 Visual Impact.** If a new tower, proposal for a new antenna attachment to an existing structure, or other modification will add to a visual impact, the application shall include a Visual Impact Assessment, which shall include the following. This is not required for colocation on an existing legal site that meets criteria in the ordinance (paraphrased in Exception 1 above).
 - A If the application is for a new tower or seeks to increase the height of an existing structure, a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure, with and without foliage to illustrate locations from which the proposed installation may be seen
 - B Photo simulations of before and after views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at the pre-application meeting. The applicant shall also provide a map showing the locations of where the pictures were taken and distance from the proposed structure

- C A written description of the visual impact of the proposed facility including, and as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening

19 After Approval.

- A RF Emission. Applicants will do post-construction testing of the new or upgraded facility to document that the site is in compliance with the FCC requirements, and share the results with the City. This should reflect all RF emission on the site, not just the specific RF emissions from the applicants project (this is applicable, for example, when there are several antennas from several carriers on one roof top site). This is only required for sites that are not categorically excluded. This is required within 60 days of project completion, or 180 days of project approval, whichever is greater.
- B Site Appearance. Applicant will submit pictures showing the condition of the site post-condition. These pictures will show required screening, safety signs, security measures, etc., as applicable, as well as the antennas and other equipment that was installed.

Determination of Completeness

The City has 15 business days to determine whether the application is complete or incomplete. If incomplete, you will be notified and asked to submit additional information.

Public Notice for Public Hearing (For Planning Commission Review Only)

Special Use Permits that are reviewed by the Planning Commission require a public hearing, and public notice. A mailed notice will be sent by the City to property owners within 350 feet.

- You are required to post a sign notice on the property at least two weeks before the date of the public hearing. See UDC Section 50-37.1.H for information on size, placement, and content of each sign; you may want to contact a sign company or printing company to have the sign made. You must provide evidence that the signs were in place; submit photo(s) of the signs to the Planning Division at least two weeks before the date of the public hearing.

Staff Review

Planning staff will evaluate your application, in coordination with the City's consultant, and prepare a staff report. When considering a recommendation for a special use or interim use, Planning Staff generally review the Future the Comprehensive Plan (including the Future Land Use Map, Governing Principles, and Policies), surrounding land uses and zoning (including use-specific standards), individual factors that are unique or special to the proposal, compliance with any approved district plan for the area, any additional UDC criteria, and other related factors.

Planning Commission Hearing and Decision

You will be notified when a Planning Commission hearing is scheduled for your application, if applicable. Planning Commission meetings are typically scheduled at 5:00 pm on the second Tuesday of each month. The Planning Commission will review the application, conduct a public hearing, and make a decision to adopt, adopt with modifications, or deny the application.

If approved, you will receive an Action Letter documenting approval. Bring a copy of the Action Letter and approved plans when you submit your building permit.

Note that other City codes may apply to your project. Please be aware of any applicable Building Code (Construction Services Division), Fire Code (Life Safety Division), and stormwater/engineering (Engineering Division) regulations. The zoning approval may be only the first step in a several step process.