

CHAPTER 1173
Regulations for Wireless Telecommunication Facilities

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1171.01 INTENT.

These regulations are established to provide for the construction and use of wireless telecommunication towers and facilities as permitted uses and conditional uses depending on the specific land areas of the City in which they are proposed to be located. The purpose of these regulations is to balance the competing interests created by the federal Telecommunications Act of 1996, Public Law 104-104, and the interests of the City in regulating wireless telecommunication towers and related facilities. Specifically, these regulations are intended to achieve the following purposes:

- (a) To protect property values;
 - (b) To regulate a commercial use so as to provide for orderly and safe development within the City;
 - (c) To provide for and protect the health, safety and general welfare of the residents of the City;
 - (d) To minimize any adverse effects on residential properties, parks, open spaces, and the non-intensive commercial zoning districts;
 - (e) To promote collocation of wireless telecommunication facilities in order to decrease the number of towers in the City;
 - (f) To maintain the aesthetic appearance of the City; and,
 - (g) To maintain, where possible, the integrity of the Zoning Code.
- (Ord. 2006-49. Passed 5-21-07.)

1173.02 DEFINITIONS.

- (a) Collocation: The use of a wireless telecommunications facility by more than one wireless telecommunications provider or by one provider for more than one type of telecommunication technology.
- (b) Lattice tower: A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.
- (c) Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

- (d) Technically Suitable: The location of a wireless telecommunication antenna that reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.
- (e) Telecommunications: The technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.
- (f) Wireless telecommunications antenna, antenna, or antenna array: The physical device or an array of elements constituting a physical device through which electromagnetic, wireless telecommunications signals authorized by the FCC are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
- (g) Wireless telecommunications facility: A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
- (h) Wireless telecommunications tower: A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures. (Ord. 2006-49. Passed 5-21-07.)

1173.03 PERMITTED LOCATIONS.

A wireless telecommunications tower or facility is permitted in the following areas when in compliance with these regulations and approved by the Planning Commission according to the procedures set forth in Chapter 1107. Efforts shall be made to locate in the order of priority listed below. If a location other than the most preferred location is proposed, the applicant shall demonstrate to the Planning Commission that a technically suitable, higher priority location is not available and that the proposed location is needed to meet the reasonable service requirements of the applicant.

- (a) New wireless antennas may collocate on existing telecommunication towers or on existing structures, which have been constructed for other purposes, such as but not limited to water towers, church towers, electric transmission towers, chimneys, and cooling towers.
- (b) A wireless telecommunication tower may be located in an M-2 and M-4 zoning districts, when located a distance at least 2 times the height of the tower from a residential district.
- (c) A wireless telecommunication tower may be located within a recorded electric high tension power line easement, provided that the tower shall not exceed the height of the existing high tension power line towers by more than 10 feet and the wireless telecommunication tower shall be located within 40 feet of such existing high tension power line towers.

- (d) A Wireless Telecommunications Tower shall be permitted in any interstate highway right-of-way and shall be set back from a dwelling unit a distance of one hundred ten percent (110%) of the height of the Tower. (Ord. 2006-49. Passed 5-21-07.)

1173.04 LOCATIONS REQUIRING CONDITIONAL USE APPROVAL.

A wireless telecommunications tower or facility may be considered in the following areas as a conditional use when approved by the Planning Commission according to the procedures set forth in Chapter 1107. When considering an application, the Planning Commission shall determine that the applicant demonstrates compliance with the standards set forth in Section 1107.12, Criteria for Reviewing Minor and Final Development Plans; with the General Criteria for Conditional Uses in Section 1147.02; and has demonstrated that more preferred locations are not technically suitable. Efforts shall be made to locate the towers in the order of priority listed below:

- (a) In the C-5, General Commercial zoning district, when located at least twice the height of the tower from a residential dwelling.
- (b) A wireless telecommunication facility that includes a tower shall not be permitted in a single-family or multi-family residential district with the exception of placement on any property with an institutional use (e.g. church, park, library, municipal government, hospital, school, utility) located in these districts. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone.
- (c) With approval from the Design and Review Board, a wireless telecommunications tower or antenna may be located on or near historic structures, districts, or corridors only if concealed so as to be substantially invisible. The views of, and vistas from, such structures, districts, and corridors shall not be impaired or diminished by the placement of telecommunications towers and antennas. (Ord. 2006-49. Passed 5-21-07.)

1173.05 STANDARDS APPLICABLE FOR CONDITIONAL USE APPLICATIONS.

A wireless telecommunication facility that is proposed in a location that requires conditional use approval shall comply with the following:

- (a) A wireless telecommunication facility shall be permitted in a location set forth in section 1173.04, Locations Requiring Conditional Use Approval, only to the extent that a technically suitable location is not available in an area identified in Section 1173.03, Permitted Locations. The applicant shall demonstrate that a technically suitable location in an area identified in Section 1173.03 is not available and:
 - (1) The applicant shall provide documentation that supports the applicant's claim that no such technically suitable location exists; or

- (2) If another tower, building or structure set forth in Section 1173.03, Permitted Locations, is technically suitable, then the applicant must show that reasonable efforts have been made to:
- A. Request co-location on the existing tower(s), building(s) or structure(s) and that each co-location request was rejected by the owner of the tower, building or structure; or
 - B. Request of all owners of properties determined to be locations that are technically suitable to permit construction of a wireless telecommunication tower, within reasonable terms, and demonstrate that each request was rejected.
- (b) As a condition of approving the conditional use permit to construct and operate a wireless telecommunication tower in the City, the owner/operator of the wireless telecommunication tower shall be required to allow co-location until said tower has reached full antenna capacity. In no event shall the owner/operator agree to allow fewer than two additional antenna platforms. Agreement to this provision shall be included in the applicant's lease with the landowner, if different from the owner/operator of such tower. Written documentation shall be presented to the Planning Commission showing that the owner of the property on which such tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this Chapter .
- (c) Any wireless telecommunication tower proposed as a conditional use shall be located a minimum of one-half mile from any other wireless telecommunication tower proposed or previously approved as a conditional use.
(Ord. 2006-49. Passed 5-21-07.)

1173.06 STANDARDS APPLICABLE TO ALL WIRELESS TELECOMMUNICATION FACILITIES.

All wireless telecommunication towers and facilities shall comply with the following standards and conditions:

- (a) Towers should be of monopole design with no guy wires. A lattice-type structure may be approved when the applicant demonstrates that such a structure provides greater ability to collocate additional antenna. Towers and antennas shall be designed to meet all applicable building code requirements.
- (b) All wireless telecommunication towers should be constructed with "stealth" design technology. Examples of stealth technology include architecturally screened roof mounted antennas, antennas integrated into architectural elements, the design of the tower to look like a light pole, power pole and trees, or other structures that may blend into the surrounding area.
- (c) Unless otherwise provided for in this Chapter, a wireless telecommunication facility shall comply with the setback and yard requirements applicable to buildings in the underlying zone in which it is

located. A wireless telecommunication tower shall be placed upon the lot in such a way as to minimize the visual impact on adjoining roads and properties. In no event shall any portion of a wireless telecommunication facility be located in front of the principal use or building on the lot.

- (d) Recognizing that the Federal Aviation Administration (FAA) may impose greater restrictions, a wireless telecommunication tower shall in no event be more than 200 feet in height as measured from the average ground level at the base of the tower. The applicant of a proposed tower shall demonstrate that the proposed tower is the minimum height necessary to accommodate the antenna and is no higher than existing towers housing similar antenna.
- (e) Any accessory structure related to the wireless telecommunication facility shall comply with the district regulations in which the tower is located.
- (f) The base of the tower and all related facilities shall be completely enclosed with a secure fence having a minimum height of eight (8) feet. Such fence shall be equipped with a locked gate.
- (g) A landscaped buffer area of not less than fifteen (15) feet in depth shall be located around the required fence. The buffer area shall be continuously maintained and promptly restored when necessary and shall consist of at least one of the following:
 - (1) A row of hardy evergreen trees tightly spaced and deciduous trees planted twelve (12) feet on center with a 2.5-inch caliper. The initial evergreen plantings shall be no less than six feet tall and planted a maximum of five (5) feet on center.
 - (2) Existing vegetation, inclusive of trees and shrubs, shall be preserved to the maximum extent possible.
 - (3) Other appropriate landscaping that achieves the screening objective, as approved by the Planning Commission.
- (h) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the FAA.
- (i) The tower shall be equipped with an appropriate anti-climbing device or shall have all climbing pegs from the lower 20 feet of the tower removed and separately secured from the public.
- (j) All towers above 100 feet shall be artificially lighted. In addition, all FAA regulations addressing safety marking and obstruction lighting shall be followed when necessary. Lighting for security purposes shall be permitted at the base of the wireless telecommunication tower.
- (k) "No Trespassing" signs and a warning sign shall be posted on the required fence in clearly visible locations. The warning sign shall include phone numbers for the police, fire and county emergency management facilities, and a local or toll-free telephone number of whom to contact in the event of an emergency. The warning sign shall be 12 inches by 12 inches. No other signs or advertising shall be located anywhere on the facility or site.
- (l) After issuance of a building permit to construct a Wireless Telecommunication Facility, the applicant shall commence construction

within six (6) months and shall complete construction within one (1) year or the permit shall expire.

- (m) All utility lines from the utility source to the Wireless Telecommunication Facility shall be underground. (Ord. 2006-49. Passed 5-21-07.)

1173.07 ABANDONED TELECOMMUNICATIONS FACILITIES.

- (a) In the event the use of a wireless telecommunications tower ceases for a period of six months, whether the tower has had no antenna mounted upon it or the antenna(s) mounted thereon is not operated, the facility shall be considered abandoned. The owner/operator shall agree to remove the nonfunctioning facility within 180 days after receipt of a notice from the Zoning Administrator to do so.
- (b) In the event that more than one wireless telecommunication service provider is using a wireless telecommunications tower, the tower shall not be considered abandoned until all such users cease using the tower, as provided in this Section.
- (c) The site shall be restored to its original state within six (6) months following the date that the wireless telecommunications tower or facility is no longer operational. (Ord. 2006-49. Passed 5-21-07.)

1173.08 APPROVAL REQUIRED.

- (a) All wireless telecommunications towers and facilities shall comply with the procedures for development plan review set forth in Chapter 1107.
- (b) In addition to the submission requirements for development plans and conditional use certificates, the applicant shall submit the following additional items:
 - (1) Name, address and telephone number of the owner or lessee of the parcel of land on which the telecommunications facility is to be situated.
 - (2) The legal description, including County Auditor's parcel identification number, city lot number, and address upon which the telecommunications facility is to be situated.
 - (3) The names, addresses and telephone numbers of all owners of other telecommunications facilities within a 2,500 feet radius of the proposed new tower or antenna, including City-owned property.
 - (4) Detailed description of the wireless telecommunications towers or facility's capacity including the number and types of antenna that it can accommodate.
 - (5) Demonstration that the wireless telecommunications tower must be located where it is proposed in order to service the applicant's service area, including an explanation of why a tower at this proposed site is technically necessary.
 - (6) When the telecommunications tower is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered

into a lease for the proposed facility and that the vehicular access is provided to the facility.

- (7) Documentation certifying that the wireless telecommunication facility complies with all current Federal Communications Commission (FCC) regulations for non-ionizing electromagnetic radiation (NIER).
 - (8) A vicinity map (at a scale of 1" = 1,000") indicating within a two-mile radius of the proposed site the location of all wireless telecommunications towers and facilities and electrical utility high-tension wires.
 - (9) A list of names and phone numbers of whom to contact in an emergency. This list shall be kept current at all times.
 - (10) A list of any and all hazards that are within the secured area.
 - (11) When the proposed facility is to include a new tower, a plot plan, including all building uses within 300 feet, shall be required at a scale not less than one-inch equal to 100 feet. Aerial photos and/or renderings may augment the plot plan.
- (c) Prior to the issuance of a zoning certificate, the applicant shall post a performance guarantee, the amount of which is determined by the Zoning Administrator. The guarantee shall be for the purpose of insuring that an abandoned, obsolete or destroyed wireless telecommunication facility shall be removed in compliance with Section 1173.07, Abandoned Telecommunications Facilities. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.
- (d) Prior to receiving approval for a new tower, the applicant shall demonstrate to the City that such facility is needed to meet the reasonable service requirements of the applicant. This assessment shall include consideration of alternative sites and the operational implications of such alternatives with respect to, but not limited to, height, opportunities for co-location, impact on residents and impact on service levels. The City may retain consultants to review the information, with the reasonable costs for such consultation being borne by the applicant.
- (e) When the applicant requests a building permit, the following items shall be provided:
- (1) A report prepared by a licensed professional engineer shall be included with the submitted application and shall contain the height, design and proof of compliance with nationally-accepted structural standards published by the American National Standards Institute/Electronic Industry Association section 222-F, as amended.
 - (2) A soil report complying with the standards of ANSI/EIA 222-F (Annex I: Geotechnical Investigations for Towers), as amended, shall be submitted to the Building Department to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.

- (3) Wireless telecommunications towers and antennas shall be designed to withstand sustained winds of at least 80 miles per hour.
- (4) The ANSI/EIA section 222-F (Annex H: Commentary on Ice Design Criteria for Communications Structures) shall be consulted for ice load specifications.
- (5) Elevations of existing and proposed structures showing width, depth, and height of the telecommunications facility as well as the specifications of the antenna and support structure shall be presented.
- (6) The applicant shall present documentation that the tower is designed in accordance with the standards established in the Section 1173.06, Standards Applicable to all Wireless Telecommunication Facilities.
- (7) The applicant shall demonstrate that the proposed tower complies with all Federal Aviation Administration regulations concerning safety.
- (8) The applicant shall demonstrate that the proposed tower complies with all Federal Communications Commission regulations addressing radio frequency emissions standards.
- (9) All applicants shall be required to construct or locate on a base tower structure and structure foundation that is designed to be buildable up to 200 feet above the finished grade. Although the initial capacity may be for one antenna, the structure shall be designed to serve as a base for a reconstructed tower with the capacity for three (3) providers when constructed to the maximum allowable height. (Ord. 2006-49. Passed 5-21-07.)

1173.09 EXEMPTION OF CERTAIN CITY PROPERTY.

Regardless of the provisions of this Chapter, a Wireless Telecommunication Facility may be permitted on any property owned or controlled by the City and currently used for public services, and such Facility shall be constructed, erected, maintained, extended and removed under such conditions, standards and regulations as may be required by the City Council. (Ord. 2006-49. Passed 5-21-07.)