

CHAPTER 1288
Wireless Telecommunications Facilities

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CROSS REFERENCES

Division of municipal corporation into zones - see Ohio R.C. 713.06
 Notice and hearing on municipal zoning regulations - see Ohio R.C. 713.12
 Telecommunications; alternative regulation - see Ohio R.C. Ch. 4927
 Effect of zoning on laws and charters - see Ohio R.C. 713.14
 Retroactive zoning ordinances prohibited - see Ohio R.C. 713.15
 Cable television - see B.R. & T. Ch. 810

1288.01 DEFINITIONS.

As used in this chapter:

- (a) "Lattice" means a framework or structure of crossed metal strips or struts and braces constructed vertically in the form of a triangle or square which tapers from the foundation to the top.
- (b) "Monopole" means a single, slender and typically cylindrical, vertical structure to which antennas or antenna support structures are affixed.
- (c) "Technically suitable" means the location of a wireless telecommunications antenna which reasonably serves the purpose for which it is intended within the band width of frequencies 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 Village.
- (d) "Wireless telecommunications antenna" means an antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC), excluding all amateur radio operator antennas.

- (e) “Wireless telecommunications equipment building” means the structure in which the electronic receiving and transmitting equipment for a wireless telecommunications facility is housed.
- (f) “Wireless telecommunications facility” means 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 and/or communication lines.
- (g) “Wireless telecommunications tower” means a structure intended to support equipment used to transmit and/or receive telecommunications signals, including monopoles and guyed and lattice construction steel structures.
(Ord. 18-98. Passed 3-17-98.)

1288.02 INTENT.

Wireless telecommunications facilities are permitted in a variety of zoning districts and as conditional uses contingent upon specific requirements being met. These criteria are in place in an attempt to minimize any adverse safety, public welfare or visual impact through buffering, siting, design and construction, and reducing the need for new towers.
(Ord. 18-98. Passed 3-17-98.)

1288.03 USE REGULATIONS.

(a) General Standards. This section applies to all wireless telecommunications facilities independent of the zoning district in which they are to be located. These general standards are to be supplemented with the provisions for the particular applications specified in subsections (b) and (c) hereof.

- (1) Location. Wireless communications towers will be allowed in General and Light Industrial Districts, with preference given to the areas of the Village listed under subsection (b) hereof. A tower may not be located on a building or structure that is listed on an historic register.
- (2) Area. A minimum lot area of one acre shall be required for a tower. In addition, lot area shall be sufficient to provide for all requirements of setbacks, yards and building coverage as specified in the underlying zoning district.
- (3) Tower type. Monopole or lattice wireless communications towers, which do not utilize guy wires, and their associated supporting buildings, shall be allowed. A wireless telecommunications tower which is supported by guy wires shall only be permitted if the applicant can prove that a monopole or lattice tower not requiring guy wires is not reasonably feasible due to non-economic reasons.

- (4) **Tower design.** A tower must be designed to have sufficient structural capacity to allow for at least three providers to be located on the structure. Towers and antennas shall meet or exceed Ohio Building Code regulations for wind resistance, icing, etc., including the ability to withstand sustained winds of eighty m.p.h. and ANSI/EIA 222-F ice load specifications.
- (5) **Equipment shelters/buildings.** The wireless communications facility must be designed to provide space on the site for equipment buildings large enough to accommodate at least three providers. Any additional wireless telecommunications equipment shelters shall be constructed of similar materials and utilize a design similar to any existing equipment shelter located on the property.
- (6) **Fencing.** A security fence eight feet in height with barbed wire around the top shall completely surround the tower, equipment building and any guy wires.
- (7) **Buffer.** Landscaping must be installed in accordance with Sections 1276.11 and 1278.11 and Chapter 1280.
- (8) **Compatibility.** The tower itself must be of such design and treated with an architectural material so that it is camouflaged or blends in with surrounding uses so as to be visually compatible with the neighborhood. The tower shall be painted a noncontrasting gray or similar color minimizing its visibility, unless otherwise required by the FCC or the Federal Aviation Administration (FAA).
- (9) **Co-location.** No new wireless communications facility may be erected if there is a technically suitable space for a wireless communications facility available on an existing wireless communications tower within the applicant's search area in which the new wireless communications antenna is to be located.
- (10) **Arbitration of co-location disputes.** The owner and operator of the tower is required to sign a statement that all disputes with other providers concerning co-location and the terms and conditions of co-location shall be submitted to commercial arbitration under a system selected by the parties, but if the parties are unable to agree, then under the auspices of the Commercial Arbitration Provision of the American Arbitration Association.
- (11) **Discontinued use.** If at any time the use of the facility is discontinued for 180 days, a designated local official may declare the facility abandoned. The facility's owner or operator will be contacted and instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the permit will expire on the 361st day. In the event that a facility is abandoned, the Village reserves the right, after written notice to the owner, to claim all right, title and interest in said facility for whatever use it deems appropriate.

- (12) **Bond.** The owner or operator shall be required, as a condition of issuance of a zoning certificate, to post a cash or surety bond acceptable to the Law Director of at least three hundred dollars (\$300.00) per vertical foot from natural grade of the wireless telecommunications tower to the highest point or antenna, which bond shall insure that an abandoned, obsolete or destroyed wireless communications antenna or tower shall be removed as provided in paragraph (a)(11) hereof. The amount of the bond may be increased at the time of the application to account for inflation.
- (13) **Miscellaneous.**
- A. **Advertising.** No advertising is permitted anywhere on the facility.
 - B. **Lighting.** The tower shall not be artificially lighted except to insure safety or as required by the FAA.
 - C. **Signage.** Warning signs shall be posted around the facility with an emergency telephone number of the person to contact in the event of an emergency.
- (14) **Approvals.** An application must be considered and approved by the Building Department and Village Council with a subsequent building permit issued by the Building Inspector.

(b) **Permitted Use In Designated Districts.** A wireless telecommunications facility is permitted in TT overlay zoned districts, within the Limited Industrial District and the General Industrial District, except where immediately adjacent to Residential Districts. Placement of wireless telecommunications facilities in the buffer zone shall be at the discretion of Council. These regions have been determined to be areas where the erection of a wireless telecommunications facility is technically suitable, aesthetically acceptable and economically viable for applicants.

(c) **Conditional Use.** In other Industrial Districts, a wireless telecommunications facility may be approved as a conditional use subject to the following conditions:

- (1) **Sole use on a lot.** A wireless telecommunications facility is permitted as a sole use on a lot subject to the following:
- A. The minimum distance from a parcel on which a tower is proposed to any Residential or Institutional District lot line shall be 500 feet. An exemption may be requested for a tower disguised as a tree or other natural structure.
 - B. The maximum height of a tower, including antenna, shall be that which does not require identification markers or painting by the FAA.
 - C. Underground equipment shelters are encouraged, and may be required by the Board of Zoning Appeals.

- D. No tower may be located within 2,000 feet of an existing telecommunications tower outside of an overlay district.
 - E. A landscaped buffer area of at least fifteen feet in depth shall be placed between the wireless telecommunications facilities and the public rights of way and any adjacent properties from which a direct view can be had of the facilities, other than the tower itself. The area shall consist of an evergreen screen of either a solid six-foot hedge, or a row of evergreen trees planted and spaced no more than ten feet apart.
 - F. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (2) Combined with another use. A wireless telecommunications facility is permitted on a property with an existing use, or on a vacant parcel subject to the following additional standards:
- A. The minimum distance from a parcel on which a tower is proposed to any Residential or Institutional District lot line shall be 300 feet. An exemption may be requested for a tower disguised as a tree or other natural structure.
 - B. The maximum height of a tower, including antenna, shall be that which does not require identification markers or painting by the FAA.
 - C. The existing use on the property may be any permitted use in the district or any lawful nonconforming use, and need not be affiliated with the wireless telecommunications provider.
 - D. The subplot area must be able to accommodate the tower, the equipment building, additional equipment buildings which may be required for co-location, security fence and buffer planting. If the title to the land on which the wireless telecommunications facility is located is conveyed to the owner of the telecommunications facility, the land remaining with both lots shall continue to comply with the minimum lot area of the district.
 - E. The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
 - F. Underground equipment shelters are encouraged, and may be required by the Board of Zoning Appeals.
 - G. No tower may be located within 2,000 feet of an existing telecommunications tower outside of an overlay district.
- (3) Combined with an existing structure. Where possible, an antenna for a wireless telecommunications facility shall be attached to an existing structure or building subject to the following conditions:

- A. The maximum height of such a facility shall be twenty feet or twenty percent of the building height above the existing building or structure, whichever is greater.
- B. If the applicant proposes to locate the telecommunications equipment in a separate building, the building shall comply with the standard setback and landscaping requirements.
(Ord. 18-98. Passed 3-17-98.)

1288.04 PROCEDURE.

The following items must be submitted to the Building Department, along with the application, as a pre-requisite for the application to be considered for review for all wireless communications facilities:

- (a) Documentation demonstrating that the height of the tower is the minimum necessary for operation.
- (b) Documentation that the tower is designed in accordance with the standards established in Section 1288.03.
- (c) Documentation demonstrating that the proposed tower complies with all State and Federal laws and regulations concerning aviation safety.
- (d) Documentation demonstrating that the proposed tower complies with all State and Federal laws and regulations concerning radio frequency emissions standards.
- (e) A current certified survey showing existing lots and property boundaries, streets, rights of way, servitudes, utilities, buildings and building setbacks, surrounding streets, and important physical features on the site, total square footage of the site and lot, permanent parcel number, and name of subdivision, if applicable.
- (f) A soil report complying with the standards of Annex I: Geotechnical Investigations, ANSI/EIA 222-F, as amended, shall be submitted to the Municipality to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.
- (g) A plot plan including all building uses within 300 feet, at a scale not less than one inch equals 100 feet.
- (h) A landscape plan of the site complying with Sections 1276.11 and 1278.11 and Chapter 1280, as appropriate.
- (i) A utility inventory showing the location of all utilities impacting this site.
- (j) A report from a licensed professional engineer which describes the tower height and design, including a cross-section of the structure, which demonstrates the tower's compliance with applicable structure standards (ANSI/EIA 222-F) and which describes the tower's capacity.

- (k) Where the telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement for the proposed facility and that vehicular access is provided to the facility, regardless of other developments which may take place on the site.
- (l) In order to prove that a new tower is required, the applicant must demonstrate that co-location is not feasible. Such an analysis shall include, but may not be limited to, the following procedure and submissions:
 - (1) Provide the Building Department with a list of the location of every tower, building, or structure that could support the antenna so as to allow it to serve its intended function.
 - (2) Demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure.
 - (3) Where another communications tower is technically suitable, the applicant must show that it has requested to co-locate on the existing tower and the co-location request was rejected by the owner of the tower.
- (m) An affidavit that the owner or operator will, if asked, lease excess space on the tower to at least two competitors at current (i.e., at the time of the request) market rates within Cuyahoga County. This statement must include dispute resolution as specified in Section 1288.03.
(Ord. 18-98. Passed 3-17-98.)

1288.05 VARIANCES.

Variations are subject to the regulations in Section 1264.08.

(Ord. 18-98. Passed 3-17-98.)

1288.06 FEES.

(a) Wireless Telecommunications Facilities.

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| (1) New wireless telecommunications tower and related facilities | \$2,000.00 |
| (2) New wireless telecommunications antenna and facilities only | 500.00 |
| (3) Annual inspection fee | 1,000.00 |

(b) Reimbursement of Expenses. The applicant for a wireless communications tower and/or antenna facility shall be responsible for all expenses incurred by the Village for any technical and/or engineering services deemed necessary by the Village to perform the administrative and/or professional reviews required by these Codified Ordinances and which are not covered by the fees set forth in subsection (a) hereof.

(Ord. 18-98. Passed 3-17-98.)

1288.07 TIME LIMITATIONS.

Once a wireless communications tower is approved, the building permit shall be obtained within six months and the project shall be completed within one year or said approval shall lapse and be void. (Ord. 18-98. Passed 3-17-98.)