

CHAPTER 1125

WIRELESS TELECOMMUNICATIONS FACILITIES

1125.01 PURPOSE AND INTENT

The purpose of this ordinance is to establish general guidelines for the siting of wireless telecommunications facilities to minimize adverse health, safety, public welfare, and visual impacts to the community. The intent of the ordinance is to: (1) encourage the location of wireless telecommunication facilities in non-residential areas and minimize the total number of such communications facilities throughout the community, (2) encourage strongly the joint use of new and existing wireless telecommunication facility sites, (3) encourage the development of wireless telecommunications facilities in areas where the adverse impact on the community is minimal, (4) encourage development of wireless telecommunications facilities in configurations that will minimize adverse visual impact, and (5) enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

1125.02 DEFINITIONS

1. Wireless Telecommunications Facility: A facility consisting of the structures, including towers and antennas mounted on towers and buildings, equipment and site improvements involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land-based or other telephone lines.
2. Tower: Any structure that is designed and constructed primarily to support one or more antennas including self-supporting lattice towers, guy towers, or monopole towers. This term includes radio and television transmission towers, microwave towers, common carrier towers, cellular, pcs and similar service towers, alternative tower structures, and the like.
3. Antenna: Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.
4. Height: As used when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said point is an antenna.

1125.03 CONDITIONAL ZONING EXEMPTIONS

The following uses are deemed to be exempt from conditional zoning regulations for Sections 1111.02(E) due to their ability to comply with the general intent and purpose of this ordinance:

1. Locating a tower or antenna, including placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or C-3 Commercial district; provided, however, that such tower shall be setback from any existing residential zoning district a distance of five hundred (500) feet and any road right-of-way a distance equal to the height of the tower any property line a distance equal to the height of the tower;
2. Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other structure) that is fifty (50) feet in height or greater, so long as said additional antenna adds no more than twenty (20) feet to the height of said existing structure; and,
3. Installing an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower.

Applications which do not meet the above criteria are subject to all regulations of Chapter 1111 in addition to this chapter.

1125.04 GENERAL REQUIREMENTS

1. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purpose of determining whether the installation of an antenna or tower complies with district development regulations and these regulations, including but not limited to setback regulations, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers or antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. Minimum information required for application. In addition to the information required for all conditional zoning applications as defined in Chapter

1111 of this ordinance, the following information is required for a complete application (applicants judged to comply with Section 1125.03 shall be exempt from providing items #1, #2, #6, and #7 below):

1. Inventory of existing facilities. Each applicant shall provide as part of the conditional zoning application an inventory of its existing towers within two miles of the corporation limits of the City of Orrville to include specific information about the location, height, and design of each tower or antenna. This information may be shared with the public with the recognition that no representation or warranting of availability or suitability of such sites for lease or other purposes;
2. Adjacent uses plot plan. Each applicant shall provide as part of the conditional zoning certificate application a plot plan which defines building locations, land uses and property ownership within 500 feet of a proposed tower or antenna. In lieu of said plot plan, an aerial photograph with sufficient detail must be submitted if the applicant has been unable to gain access to adjacent properties.
3. Federal Requirements. Each applicant shall provide as part of the application for conditional zoning certificate evidence of compliance with minimum Federal Communications Commission (FCC) requirements for radio frequency emissions, evidence of compliance with Federal Aviation Administration (FAA) standards for height and lighting and certificates of compliance from all affected agencies;
4. Building Code and Safety Standards. Each applicant for a conditional zoning certificate shall provide evidence that the tower has been designed to meet the minimum structural standards for antennas and facilities for minimum of three providers of telecommunications services including the applicant and include a description of the number and types of antennas the tower can accommodate. The applicant must also supply evidence, in the form of a soils report, which complies with the standards of Appendix I; Geotechnical Investigations, ANSI/EIA 222-E, as amended, to document design specifications of the foundation for the tower. All towers and antenna

shall be designed to withstand wind gusts of at least 100 miles per hour. All of the above evidence must be provided by a licensed professional engineer and comply with nationally accepted standards for tower and antenna design. Any pre-industrialized accessory building proposed must show evidence of an approval certificate from the State of Ohio;

5. Evidence of lease agreement. Any applicant must demonstrate evidence of a lease agreement which clearly defines the premises leased for the wireless telecommunication facility. The lease must further describe or detail sufficient to the City Planning Commission the responsibility of the telecommunications provider or the property owner with respect to the demolition of the tower upon abandonment;
6. Agreement for joint use of facilities. All applicants must provide written evidence of willingness to permit joint use or collocation of other telecommunication service providers on the tower subject to reasonable and accepted standards for design and construction costs and lease rates; and
7. Evidence of available suitable existing structures. Applicants must provide, as appropriate, information and evidence to support new tower construction as defined in Section 1125.06.

1125.05 FACTORS IN CONSIDERATION OF CONDITIONAL ZONING CERTIFICATES

The Planning Commission shall consider the following factors when considering a conditional use application in addition to the goals and intent of this chapter as defined in Section 1125.01:

1. Height of the proposed tower;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature and use on adjacent and nearby properties;
4. Surrounding topography;
5. Design of the tower to reduce visual obtrusiveness as required in Section 1125.08;
6. Access to the tower; and

7. Availability of suitable existing towers and structures as discussed in Section 1125.06.

**1125.06 AVAILABILITY OF SUITABLE EXISTING TOWERS
OR OTHER STRUCTURES**

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of the following:

1. Evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements;
2. Evidence that the existing towers or structures are not of a sufficient height to meet the applicant's engineering requirements;
3. Evidence that existing structures or towers do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;
4. Evidence that the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna;
5. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower construction are presumed to be unreasonable; and,
6. The applicant demonstrates other limited factors that render existing towers and structures unsuitable.

The above evidence must be provided and certified by a registered professional engineer and clearly demonstrate the evidence required. In addition, the evidence of a request for collocation by an applicant and the denial by the structure or tower owner must be presented to the Planning Commission.

**1125.07 AREA, HEIGHT, AND BUFFER REGULATIONS
IN NON-RESIDENTIAL DISTRICTS**

1. All area and height regulations and other district regulations shall apply to use of a parcel by a wireless communications facility, including accessory equipment buildings. In addition, towers and antennas are subject to the following:

Minimum Tower Setback: The tower shall be setback from road right-of-way lines and other property lines a distance equal to the height of the tower in non-residential districts and two times the height of the tower in residential districts.

Maximum Tower Height: For a single user: one hundred-thirty (130) feet, for two users: one hundred-sixty (160) feet, for three or more users: two-hundred (200) feet.

Adjacent Tower Separation: Towers ninety (90) feet in height or higher may not be located within one-quarter (1/4) mile of another tower which is ninety (90) feet or higher in height.

2. Site plans shall include the following minimum buffer plan:
 1. Fencing. A fence or other barrier a minimum height of six (6) feet shall surround the facility including the tower and any accessory buildings.
 2. Landscaping. Existing vegetation shall be preserved to the maximum extent possible. Minimum new landscaping shall be an evergreen screen including trees with a maximum spacing of six (6) feet around the perimeter of the tower and accessory structure area. The landscaped area shall be a minimum of ten (10) feet wide outside the fence area in non-residential districts and a minimum of twenty (20) feet wide outside the fence in residential areas.
 3. Vehicular access to the site shall, whenever feasible, be provided along the circulation driveways of the existing uses. Pavement materials and requirements shall be as required by the Planning Commission.

**1125.08 AREA HEIGHT AND BUFFER REGULATIONS
IN RESIDENTIAL DISTRICTS**

1. All area and height regulations and other district regulations shall apply to use of a parcel by a wireless communications facility, including accessory equipment buildings. In addition, towers and antennas are subject to the following:

Minimum Tower Setback: The tower shall be setback from road right-of-way lines and other property lines a distance equal to two times the height of the tower.

Maximum Tower Height: For a single user: one hundred-thirty (130) feet, for two users: one hundred-sixty (160) feet, for three or more users: two hundred (200) feet.

Adjacent Tower Separation:
Towers ninety (90) feet in height or higher may not be located within one-quarter mile of another tower which is ninety (90) feet or higher in height.

2. Site plans shall include the following minimum buffer plan:
 1. Fencing. A fence or other barrier a minimum height of six (6) feet shall surround the facility including the tower and any accessory buildings.
 2. Landscaping. Existing vegetation shall be preserved to the maximum extent possible. Minimum new landscaping shall be an evergreen screen including trees with a maximum spacing of six (6) feet around the perimeter of the tower and accessory structure area. The landscaped area shall be a minimum of twenty (20) feet wide.

1125.09 DESIGN REGULATIONS

- A. Tower type shall be limited to lattice self-supporting and monopole towers. No guy towers shall be permitted in the City of Orrville.

2. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or FCC, be painted a neutral color, so as to reduce its visual obtrusiveness.
3. The design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
4. All antennas and supporting equipment located on buildings or structures other than towers shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
5. Towers shall not be artificially lighted unless required by the FAA, FCC, or other applicable authority. If lighting is required, the Planning Commission shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding areas. No strobe lighting of any type is permitted on any tower in the City of Orrville.
6. No advertising is permitted at wireless communications sites or on any structure.

1125.10 REMOVAL OF ABANDONED TOWERS

Any antenna or tower that, after the initial operation of the facility, is not used for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna shall remove same within ninety (90) days or receipt of notice from the City of Orrville notifying the owner of such abandonment. Failure to remove such abandoned tower shall result in declaring the structure a public nuisance. If there are two or more users of a single tower, then this section shall not become effective until all users cease using the tower.

1125.11 ANNUAL INSPECTION REQUIRED

Any towers or antennas approved as a result of this ordinance shall provide to the City of Orrville evidence of an annual inspection of the premises for health, safety and general welfare concerns including structural stability, maintenance and other conditions established by the Planning Commission at the time of approval. The owner shall also provide copies of required FAA and FCC inspection and registration approvals on an annual basis.

1125.12 DENIAL OF A CONDITIONAL ZONING CERTIFICATE

Any denial of a conditional zoning certificate for wireless communications facilities must be provided to the applicant in writing. Such written document must be supported by substantial evidence that the applicant did not comply with the intent and purpose of this ordinance as well as the specific provisions and be signed by the Chairman of the Planning Commission.

1125.13 PERFORMANCE BOND REQUIRED

Prior to issuance of a conditional zoning certificate to erect a new tower structure, every applicant shall deposit with the City of Orrville a performance bond which shall be conditioned upon compliance with this chapter. The amount of the Bond, not less than \$5,000 nor more than 10% of construction costs, shall be set by the Planning Commission. Such bond shall be conditioned upon compliance with all aspects of this chapter and must be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any conditional zoning certificate issued under this chapter. The performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The format of the bond shall be approved by the Director of Law.

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