

## **CHAPTER 1150**

### **Wireless Telecommunications Facilities**

- 1150.01 Definitions.
- 1150.02 Standards applicable to all wireless telecommunication facilities.
- 1150.03 Co-location requirements.
- 1150.04 Wireless telecommunication facilities principally permitted.
- 1150.05 Wireless telecommunication facilities conditionally permitted.
- 1150.06 Abandonment of tower.
- 1150.07 Application and review requirements.
- 1150.08 Variances.
- 1150.09 Separability.

#### **1150.01 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Antenna." Any panel, whip, dish, or other apparatus designed for communications through the sending and/or receiving of electromagnetic waves, excluding any support structure other than brackets.
- (b) "Antenna support structure." Any building or other structure other than a tower which can be used for location of wireless communication facilities.
- (c) "Applicant." Any person that applies for a permit pursuant to this Zoning Code.
- (d) "Application." The process by which an applicant submit a request and indicates a desire to be granted a conditional use permit under the provisions of this Zoning Code. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City of Sidney concerning such a request.
- (e) "Co-location." The use of a wireless telecommunication facility by more than one wireless telecommunication provider.
- (f) "Emergency." A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- (g) "Engineer." Any engineer licensed by the State of Ohio.
- (h) "Equipment shelter." The structure in which electronic receiving and relay equipment for a wireless telecommunication facility is housed.
- (i) "FAA." The Federal Aviation Administration and any legally appointed, designated or elected agent or successor.

- (j) "FCC." The Federal Communication Commission and any legally appointed, designated or elected agent or successor.
- (k) "Monopole." A support structure constructed to a single, self-supporting hollow metal tube securely anchored to a foundation.
- (l) "Person." Any natural person, firm, partnership, association, corporation, or other legal entity, private or public, whether for profit or not-for-profit.
- (m) "Tower." A self-supporting lattice, guyed, or monopole structure constructed from grade which supports wireless telecommunication facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.
- (n) "Wireless telecommunication facility." Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or have installed upon a tower antenna support structure. However, the term wireless communication facilities shall not include:
  - (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial.
  - (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
  - (3) Antennas use by amateur radio operators.
- (o) "Zoning Code." The Zoning Code of the City of Sidney, Ohio.  
(Ord. A-2248. Passed 4-9-01.)

**1150.02 STANDARDS APPLICABLE TO ALL WIRELESS TELECOMMUNICATION FACILITIES.**

- (a) Construction Standards. All wireless telecommunication facilities and support structures shall be certified by an engineer licensed in the State of Ohio to be structurally sound and, at a minimum, in conformance with the Ohio Basic Building Code.
- (b) Natural Resource Protection Standards. The location of the wireless communication facility shall comply with all natural resource protection standards established either in this Zoning Code or in other applicable regulations, including those for flood plain, wetlands, ground water protection, and steep slopes.
- (c) Historic or Architectural Standards Compliance. Any application to locate a wireless telecommunication facility on a building or structure that is listed on a Federal, state, or local historic register, or is in an historic district established by the City of Sidney, Ohio, shall be subject to review by the City of Sidney, Ohio Downtown Design Review Board to insure architectural and design standards are maintained.
- (d) Color and Appearance Standards. All wireless telecommunication facilities shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communication Commission, Federal Aviation Administration, and/or by historical or architectural standards imposed under Section 1150.02 of this Zoning Code. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by the means of camouflage deemed acceptable by the City.

- (e) Advertising Prohibited. No advertising is permitted anywhere upon or attached to the wireless telecommunication facility.
- (f) Artificial Lighting Restricted. No wireless communication facility shall be artificially lit except as required by the Federal Aviation Administration.
- (g) Co-location. All wireless telecommunication facilities shall be subject to the co-location requirements set forth in Section 1150.03 of the Zoning Code.
- (h) Abandonment. All wireless telecommunication facilities shall be subject to the abandonment requirements set forth in Section 1150.06 of this Zoning Code.
- (i) Security Enclosure Required. All towers and equipment shelters shall be enclosed either completely or individually. The City and co-locators shall have reasonable access. No fence shall be required top of a building or other structure if access to the roof or top of the structure or building is secure.
- (j) Existing Vegetation and Buffer Plantings. Existing vegetation (trees, shrubs, etc.) shall be preserved to the maximum extent possible. Buffer plantings shall be located around the perimeter of the security enclosure as deemed appropriate by the Board. An evergreen screen may be required around the perimeter of the property in lieu of such buffer plantings.
- (k) Access Control and Emergency Contact. "No Trespassing" signs shall be posted around the wireless telecommunications facility, along with a telephone number of who to contact in the event of an emergency.

(Ord. A-2248. Passed 4-9-01.)

### **1150.03 CO-LOCATION REQUIREMENTS.**

- (a) Jurisdictional Study of Potential Public Sites. In order to encourage the location of a wireless telecommunication facility on publicly-owned property, the City shall undertake an identification of publicly-owned properties that the City determines are suitable for such use. The City shall regularly update such identification and make the results of such available to the public.
- (b) Exemption of Proof of Co-location Availability. Persons locating a wireless telecommunication facility upon a publicly owned property identified in the study mentioned in Section 1150.03(a) above shall be exempted from the requirements herein regarding presentation of proof that co-location is not available. However, persons locating a wireless telecommunication facility on publicly-owned property shall continue to be subject to the requirements contained in Section (co-location design required) 1150.03(d) below.
- (c) Exemption from Certain Requirements. Persons locating a wireless telecommunication facility on publicly owned property identified by the City to be suitable for such purposes shall be exempt from the requirements of Section 1150.06, Section 1150.07 and Section 1150.08.
- (d) Co-location Design Required. No new tower shall be constructed in the City unless such tower is capable of accommodating at least one additional wireless telecommunication facility owned by another person.

- (e) Technically Suitable Space. Authorization for a tower shall be issued only if there is not technically suitable space reasonably available on an existing tower or structure within the geographic area to be served.
- (f) Application Requirements. With the permit application, the applicant shall list the location of every tower, building, or structure within a reasonable proximity that could support the proposed antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building, or structure within such area. If another communication tower owned by another party within such area is technically suitable, applicant must show that an offer was made to the owner of such tower to co-locate an antenna on a tower owned by the applicant or reciprocal terms within the City, and the offer was not accepted. If such co-location offer has not been attempted by the applicant, then such other tower is presumed to be reasonably available.

(Ord. A-2248. Passed 4-9-01.)

**1150.04 WIRELESS TELECOMMUNICATION FACILITIES PRINCIPALLY PERMITTED.**

- (a) Towers which are 200 feet or less in height shall be a principally permitted use in the following zones: B-2 Community Business, I-1 Light Industrial, and I-2 General Industrial Zoning Districts.
  - (1) The following minimum requirements shall apply to any principally permitted tower:
    - A. Monopoles, lattice towers, and guyed towers permitted.
    - B. Maximum height shall be 200 feet.
    - C. The minimum setback shall be 200 feet from nearest N, S or R District line or any residential use, otherwise same as for principal use in district where located.
    - D. All equipment shelterhouses shall meet height and setback requirements for any accessory use as specified in the district where it is located.
- (b) Antennas shall be a principally permitted use in the following zones: B-1 Local Business, B-2 Community Business, B-5 Court Square Business, I-1 Light Industrial and I-2 General Industrial Zoning Districts.
  - (1) The following minimum requirements shall apply to any principally permitted antenna:
    - A. Maximum height shall be 15 feet.
    - B. If equipment shelter is not located on or attached to the building then it shall meet the height and setback requirements for an accessory building in that district.

(Ord. A-2248. Passed 4-9-01.)

**1150.05 WIRELESS TELECOMMUNICATION FACILITIES CONDITIONALLY PERMITTED.**

- (a) Towers which are over 200 feet in height may be permitted only if expressly authorized by the Board of Appeals, subject to Chapter 1147 and in the following zones: B-2 Community Business, I-1 Light Industrial, and I-2 General Industrial Zoning Districts.
  - (1) The following conditions shall apply to any conditionally permitted tower:
    - A. Maximum height - as determined by the ZBA.
    - B. Setbacks - the distance to the nearest N, S or R district line or any residential use shall be greater than the height of the tower, otherwise same as for principal use in district where located.
    - C. Equipment shelter - shall meet height and setback requirements for an accessory use as specified in the district where it is located.
- (b) Towers may be permitted in any N, S or R District only if authorized by the Board of Appeals subject to Chapter 1147.
  - (1) The following conditions shall apply to conditionally permitted towers in a N, S, or R District:
    - A. Permitted on property with a public institutional use (e.g. park, library, government, school or utility).
    - B. Monopoles, only.
    - C. Applicant must present sufficient evidence as to why it is not technically feasible to locate in a more appropriate non-residential zone.
    - D. Maximum height - to be determined by the Board.
    - E. Setback - 200 feet from nearest N, S or R District line or any residential use, otherwise same as for principally permitted structures.
    - F. Equipment shelter - shall meet the height and setback requirements for a principal building.
- (c) Antennas may be a conditionally permitted use in the following zones: N-1 Non Urban, S-2 Suburban Residence, R-1 Single-Family Residence, R-2 Single and Two-Family Residence and R-3 Multi-Family Residence Zoning Districts, only if expressly authorized by the Board of Appeals subject to Chapter 1147.
  - (1) The following conditions shall apply to conditionally permitted antennas in a N, S, or R District:
    - A. Property with public institutional use, such as park, library, government building, school or utility.
    - B. R-3 District on any non-residential building or any residential building four or more stories in height.
    - C. Maximum height - 15 feet.
    - D. Equipment shelter - shall meet height and setback requirements for a principal use as specified in the district where it is located.
- (d) Required Buffer. A buffer shall be planted in accordance with Section 1150.02(j).
- (e) Vehicular Access. Vehicular access to the equipment shelter shall be via the existing circulation system and be paved with asphalt or concrete.

(Ord. A-2248. Passed 4-9-01.)

**1150.06 ABANDONMENT OF TOWER.**

- (a) Required Notification. All providers utilizing towers shall present a report to the City notifying it of any tower facility located in the City whose use will be discontinued and the date the use will cease. Such report shall be filed with the City thirty days prior to the cessation date. If at any time the use of the facility is discontinued for one hundred and eighty days, the City Manager (or his or her designee) may declare the facility abandoned. The one hundred and eighty day period excludes any dormancy period between construction and the initial use of the facility. The owner/operator of the facility and of the property will receive written notice from the City Manager (or his or her designee) and be instructed to either reactivate use of the facility within one hundred and eighty days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the City will either remove the facility or will contract to have the facility removed and assess the costs to the private property owner.
- (b) Required Notice. The City must provide the wireless telecommunication facility owner and the private property owner thirty day notice and an opportunity to be heard before the Zoning Board of Appeals before initiating such action. After such notice has been provided, the City shall have the authority to initiate proceedings to either acquire the tower and any appurtenances attached thereto at the current fair market value at that time, or in the alternative, order the demolition of the tower and all appurtenances.
- (c) Right to Public Hearing by Owner. The City shall provide the wireless telecommunication facility owner and the private property owner with the right to a public hearing before the Zoning Board of Appeals, which public hearing shall follow the thirty day notice required in Section 1150.06(b). All interested parties shall be allowed an opportunity to be heard at the public hearing.
- (d) Order of Abatement or Demolition. After a public hearing is held pursuant to Section 1150.06(c) the City may order the abatement or demolition of the tower. The City may require the private property owner to pay for all expenses necessary to acquire or demolish the tower.

(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1150.07 APPLICATION AND REVIEW REQUIREMENTS.**

- (a) Required Information for Applications. All applications for wireless telecommunication facilities, including monopole towers, shall include the information required under this section.
- (b) Plot Plan Required. When a proposed wireless telecommunication facility or antenna support structure is to include a new tower, a plot plan at a scale of not less than one inch equals one hundred feet shall be submitted. This plot plan shall indicate all building and land uses within two hundred feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
- (c) Photo Simulations Required. Photo simulations of the proposed wireless telecommunication facility from affected residential properties and public rights-of-way taken at designated locations shall be provided.
- (d) Technical Necessity. The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to provide adequate coverage to the

applicant's service area. There shall be an explanation of why a tower and the proposed site is technically necessary.

- (e) Review by Radio Frequency Engineer. The evidence submitted by the applicant shall be reviewed by a radio frequency engineer, who will support or refute the evidence.
- (f) Land Owner Support and Access.
  - (1) Where the wireless telecommunication facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and vehicular access is provided to the facility.
  - (2) The applicant shall also present information that the private property owner is aware of his fiscal responsibility to pay all expenses should the City demolish and remove the wireless communication facility in accordance with the procedures described in this chapter.
- (g) Required Site and Landscaping Plan. The applicant shall present a site and landscaping plan showing the following:
  - (1) Specific placement of the wireless telecommunication facility on the site.
  - (2) The location of existing structures, trees, and other significant site features.
  - (3) Type and locations of plant materials used to screen facilities.
  - (4) The proposed color of the facilities.
- (h) Co-location and Removal Agreement. The applicant shall present signed statements indicating that:
  - (1) The applicant agrees to allow for the potential co-location of additional wireless telecommunication facilities by other providers on the applicants structure or within the same site locations; and
  - (2) The applicant agrees to remove the facility within one hundred eighty days after its use is discontinued.
- (i) Denial by Jurisdiction. Any decision to deny a request to place, construct or modify a wireless telecommunication facility and/or tower shall be in writing and supported by evidence contained in a written record.

(Ord. A-2248. Passed 4-9-01.)

#### **1150.08 VARIANCES.**

Any request to deviate from any of the requirements of this chapter shall require approval of a variance in conformance with the procedures set forth in Chapter 1151 of this Code of Ordinances.

(Ord. A-2248. Passed 4-9-01.)

#### **1150.09 SEPARABILITY.**

Should any section, clause, paragraph, sentence, item, phrase, or provision of this chapter be declared by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. A-2248. Passed 4-9-01.)

THIS PAGE INTENTIONALLY LEFT BLANK