

CHAPTER 1125

Wireless

Telecommunications

Imported chapter material associated with 1125.

- [CHAPTER 1125 Wireless Telecommunications — Chapter Overview](#)
- [1125.01 WIRELESS TELECOMMUNICATION FACILITIES.](#)
- [1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.](#)

CHAPTER 1125 Wireless Telecommunications — Chapter Overview

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- Skip to main content
- Search
- Sitemap
- Login
- Select Language
- Resources
- Skip to code content (skip section selection)
- 2025-04 (current)
- Sheffield Lake Overview
- Codified Ordinances of Sheffield Lake, OH
- CODIFIED ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- CERTIFICATION
- ROSTER OF OFFICIALS
- ADOPTING ORDINANCE NO. 116-84

COMPARATIVE SECTION TABLE

TABLES OF SPECIAL ORDINANCES OF SHEFFIELD LAKE

CHARTER

PART ONE - ADMINISTRATIVE CODE

PART THREE - TRAFFIC CODE

PART FIVE - GENERAL OFFENSES CODE

PART SEVEN - BUSINESS REGULATION CODE

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

PART ELEVEN - PLANNING AND ZONING CODE

CHAPTER 1101 General Provisions

CHAPTER 1103 Administration and Decision-Making Bodies

CHAPTER 1105 Review Procedures

CHAPTER 1107 Zoning Districts and Principal Use Regulations

CHAPTER 1109 Planned Residential Developments (PRD)

CHAPTER 1111 Accessory and Temporary Use Regulations

CHAPTER 1113 General Development Standards

CHAPTER 1115 Landscaping and Screening Standards

CHAPTER 1117 Parking and Access Standards

CHAPTER 1119 Signs

CHAPTER 1121 Subdivision Design Standards

CHAPTER 1123 Wind Energy Systems

CHAPTER 1125 Wireless Telecommunications

1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

CHAPTER 1127 Nonconformities

CHAPTER 1129 Enforcement and Penalties

CHAPTER 1131 Definitions

PART THIRTEEN - BUILDING CODE

PART FIFTEEN - FIRE PREVENTION CODE

OH

Sheffield Lake

Codified Ordinances of Sheffield Lake, OH

CHAPTER 1125 Wireless Telecommunications

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Wireless Telecommunications

1125.01 Wireless telecommunication facilities.

1125.02 Use of public right-of-way for small cell wireless facilities and wireless support structures.

1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

(a) Purpose.

(1) The purpose of this section is to provide for the common good and preserve the enjoyment of private property through the regulation of the construction, placement and modification of wireless telecommunications systems, including telecommunications towers and associated facilities, while ensuring the ability of the consumer to use and enjoy telecommunications services of all types, and to protect the right of private and public enterprise to exercise free trade.

(2) To the extent permitted by law, the City shall apply the regulations set forth in this section to specifically accomplish the following:

A. Accommodate the need for wireless telecommunications towers and facilities to meet the public's demand for the use and convenience of wireless personal cellular telecommunications service and wireless internet access, while regulating their location and number in the City;

B. To encourage the location of towers and facilities on nonresidential land;

C. To minimize the total number of towers and facilities;

D. To ensure that towers and antennas are configured in such a way as to minimize adverse visual impact by design, careful siting, landscape screening, camouflaging and innovative techniques brought about through the advance of science and technology;

E. To avoid damage to adjacent properties from tower failure through competent engineering, construction and erection of towers;

F. To ensure that a competitive and broad range of wireless personal communications services and high-quality telecommunications infrastructures are provided to serve the residents, businesses, public sector and visitors to the City;

G. To create and preserve a wireless telecommunications facilities system which will serve as an effective part of the City's emergency response network; and

H. To accommodate the public's demand for present day wireless personal communications services through these standards, so that changing technologies will continue to serve these needs, while concurrently preserving the City's aesthetic and ecological integrity, so that residents of the future may continue to enjoy the comfortable living standards of the Sheffield Lake community.

(b) Location Criteria.

(1) Wireless telecommunications facilities, towers and related structures may be located in any zoning district and located according to the Official Zoning Map as a conditional use. Generally, wireless telecommunications towers are objectionable in residential areas because their use is industrial in nature, and may be objectionable in the community at large because they are frequently considerably taller than surrounding structures, causing them to be seen from long distances. Their location is therefore regulated as permitted by the Telecommunications Act of 1996, as may from time to time be amended.

(2) In order to accommodate the communications needs of residents and businesses while protecting the health, safety and general welfare, the City recommends and encourages the placement of wireless telecommunications facilities and towers in nonresidential areas, in the following order of preference:

A. City-owned property;

B. Industrial areas;

C. Other nonresidential districts deemed appropriate by review of the Planning Commission and approval of Council.

(3) When a wireless telecommunications facility is located in conformity with this chapter, and the antenna is collocated as herein defined, and is attached to an institutional, recreational, public utility, office, industrial or commercial structure or building, equipment and apparatus supporting such facility shall be stored on the premises inside the wireless telecommunications equipment building or other structure on the premises of the facility.

(c) Towers. In addition to the definitions set forth this code, "towers" shall be regulated by this section.

(1) Towers Located in Nonresidential Zoning Districts.

A. A wireless telecommunications tower and related facilities are permitted as the sole use on a zoning lot, and may be permitted, by approval of the Planning Commission, on zoning lots containing other uses where existing structures enable collocation, including on City owned property.

B. The minimum lot size on which a wireless telecommunications tower and related facilities are placed shall be the minimum lot size required for the underlying zoning district.

C. For purposes of this chapter only, any other provision of this Code notwithstanding, the setback for a tower of any variety, including a monopole, shall be measured from the base of the tower or monopole at the point where it is placed in the ground to the property line, or to the nearest residential dwelling located within the property and part of a multi-use non-residentially zoned parcel. The exception to this regulation is where a tower, monopole, antenna, whether camouflaged or not, or any apparatus defined herein as a tower, is affixed to any existing building, and the use of it as a tower for wireless telecommunications and wireless internet access is conditionally approved by the Planning Commission.

i. An equipment building, and all other structures except the tower, shall be set back the minimum distance required in the underlying zoning district.

ii. In Industrial zoning districts, the setback for the tower shall be at least twenty-five percent (25%) of the total height of the tower. A minimum of fifty (50) feet shall be required.

iii. In nonindustrial zoning districts, excluding the conditions listed in paragraphs 1125.01(c)(1)C.iv and 1125.01(c)(1)C.v hereof, the tower shall be set back fifty percent (50%) of the total height of the tower. A minimum of fifty (50) feet shall be required.

iv. In nonindustrial zoning districts or in the Industrial zoning districts where the lot on which a tower is located abuts another lot on which is located, a school of any type, including institutions of higher learning beyond high school level, public or private parks (but not including golf courses), hospitals, playgrounds, day-care centers, health centers or other human services and educational uses, as determined by the Planning Commission to apply to this subsection, the tower shall be set back a distance equal to the total height of the tower.

v. In nonindustrial zoning districts and in Industrial zoning districts where a lot on which a tower is located abuts any lot within a residential zoning district of any classification, the tower shall be set back seventy-five percent (75%) of the total height of the tower. A minimum of seventy-five (75) feet shall be required.

vi. Guyed wires may be anchored within the required setback area only if the tower itself is placed in conformity with this chapter regarding its setbacks, but guy wires and other similar supporting devices shall not be anchored any less than ten (10) feet from any adjoining parcel or zoning lot, regardless of its underlying zoning district.

(2) Towers in Residential Zoning Districts.

A. In order to locate wireless telecommunications towers and related facilities in residential zoning districts, the applicant-service provider shall demonstrate to the Planning Commission that there is sound geographic reason for doing so, that offers to collocate with other providers within the City or neighboring communities have proven ineffective, and that in order to provide wireless telecommunications services to the residents and businesses in such a manner which serves their best interests, such towers and facilities may only be placed in a residential zoning district.

B. The setbacks for towers and related facilities in residential zoning districts shall be the same as in nonresidential zoning districts, pursuant to paragraph 1125.01(c)(1)C hereof.

C. Towers supporting amateur radio antennas and conforming to all applicable provisions of

this chapter shall be permitted in residential zoning districts, but not as the sole use of a lot, and only in the rear yard of such parcels, as defined in this Code.

D. The City, and any other governmental entity, may locate wireless telecommunications towers and related facilities in residential zoning districts, but only on publicly owned property, even as the sole use of the lot.

i. The City may locate wireless telecommunications towers and related facilities in residential zoning districts to provide wireless telecommunications.

ii. The City may contract with private wireless telecommunications service providers to locate a tower and related facilities on City-owned property in residential zoning districts, provided that all provisions of this chapter are followed.

E. In residential zoning districts, collocation shall be especially encouraged.

F. In residential zoning districts, all towers shall be camouflaged using the best and most advanced techniques possible, pursuant to Section 1125.01(g) unless waived by the Planning Commission for cause.

G. If wireless telecommunications towers and related facilities are located in residential zoning districts, sufficient landscaping, buffering and/or screening shall be required, and shall be considered paramount to the establishment of such structures in all residential zoning districts. (See also Section 1125.01(d).)

H. Wireless telecommunications towers and related facilities are permitted on land which has been established as permanent open space or a park, subject to the following conditions:

i. The open space shall be owned and overseen by the City, the County, the State, the United States of America, other governmental or quasi-governmental agencies, a private homeowners association or a private, non-profit conservation organization.

ii. If in a residential zoning district, the tower shall not exceed 200 feet in height, including antennas.

iii. The wireless telecommunications equipment building shall not exceed twenty (20) feet in height.

iv. The maximum size of the wireless telecommunications equipment building shall be 300 square feet, or, if more than one is located on a given zoning lot, 700 square feet in the aggregate.

v. Notwithstanding any other setback provisions of this chapter, the tower shall be set back a minimum of 200 feet from any single-family residential zoning district.

I. Towers and related wireless telecommunications facilities shall be placed, constructed and modified subordinate and in deference to the use of private, residentially zoned or used property, by minimizing the visual effect on adjoining and vicinity residential properties, and to minimize the visual, often unattractive, impact that towers and related wireless telecommunications facilities create when viewing them from a distance.

(3) Design Requirements for Towers and Facilities.

A. Any wireless telecommunications tower shall be designed, structurally and electrically, to accommodate both the applicant's antenna and at least comparable antennas for at least two additional service providers if the tower is at least 100 feet in total height, or for one additional service provider if the tower is at least sixty (60) feet in total height. Towers shall be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at various heights.

B. Towers and antennas, as well as all wireless telecommunications facilities, shall be designed and situated upon a lot so as to minimize their visibility and to the greatest extent possible to blend into the surrounding environment.

C. Towers shall be designed, constructed, erected and maintained with the utmost care for the safety of persons and property. Certification attesting to the structural integrity of towers shall comply with the provisions of Section 1125.01(e).

(4) Tower Height.

A. The maximum height of a tower shall be 200 feet unless a technically logical reason for locating a higher tower is demonstrated to the satisfaction of the Planning Commission and Council to be in order, on a case-by-case basis, by the wireless telecommunications service provider making the request. When a higher tower is required by provision of law consistent with the Telecommunications Act of 1996, as may from time to time be amended, the provider shall submit written verification of such fact. Towers less than 200 feet in height are especially encouraged.

B. The physical ability to collocate antennas on any tower shall be required on all towers higher than sixty (60) feet in height, unless it can be demonstrated that, because of the type of tower involved for a given proposal and/or for other technically logical reasons, the physical ability to collocate on such a tower above sixty feet in height is not feasible or desired. A tower 100 feet or higher shall be designed to have sufficient structural capacity to accommodate at least three additional providers.

(5) A tower and its related wireless telecommunications equipment building and other structures, landscaping and other features, if any, shall be located on a single zoning lot. The provider shall locate a tower and related wireless telecommunications facilities only on a zoning lot of sufficient dimensions and conditions to accommodate the overall facility, tower, etc., so that all minimum setbacks and any other zoning requirements of the underlying zoning district are met.

(6) Underground wireless telecommunications equipment buildings are especially encouraged, especially on zoning lots in or abutting residential zoning districts where a tower is placed.

(d) Additional Regulations. The provisions of this section pertain to towers and all other wireless telecommunications facilities and structures, and shall be in addition to the regulations set forth in Section 1125.01(c).

(1) All towers and related wireless telecommunications facilities shall be located in a landscaped setting. A landscaped buffer area of not less than ten (10) feet in depth shall be placed between the wireless telecommunications facility and the public right-of-way, residential zoning district and any adjacent residential use, regardless of the underlying zoning district thereof. Such buffer area shall, at a minimum, consist of dense foliage and vegetation, of at least partially evergreen species, not less than the height of any equipment proposed for the site but not less than eight feet in height. Landscaping shall be continuously maintained and promptly reconditioned, if necessary. Other landscaping may be required by the Planning Commission. The arrangement of landscaping and the overall design thereof within a zoning lot on which a wireless telecommunications tower and related facility is placed may be considered by the Planning Commission.

(2) Screened fencing shall be provided for appearance, public safety and personal security, according to the following requirements:

A. Height.

- i. The minimum height of any fencing shall be three (3) feet.
- ii. The maximum height in any residential zoning district shall be six (6) feet.
- iii. The maximum height in any nonresidential zoning district shall be eight (8) feet.

B. In any zoning district, the screened fencing shall consist of a chain link fence, as defined in this code for the underlying zoning district. Fencing in an industrial zoning district may be capped with barbed wire to a maximum of twelve (12) inches. The barbed wire portion, if any, shall

be included in the measurement of the total height of such fencing.

C. Fencing may be unpainted or painted to blend into the surrounding area.

D. Access to the tower and related wireless telecommunications facility shall only be through a locked gate, properly maintained and secured twenty-four hours per day. The City shall not be responsible for any damage to the tower or other auxiliary structures, and shall be held harmless from any liability of any kind relating to damage, destruction, misfeasance of the tower or auxiliary structures, and from any personal injury to any party whomever.

(3) Except as required by law or safety factors as determined by the City, an antenna or tower shall not be illuminated and lighting fixtures or signs, other than those sanctioned by this chapter, shall not be attached to an antenna or tower. Security lighting shall be permitted for the wireless telecommunications equipment building and other auxiliary structures, if any. Any permitted lighting shall be situated and directed so as not to emit light directly or indirectly onto any adjoining residential property, and in any zoning district, such lighting shall be designed, placed, and directed to minimize its emission and glare onto any adjoining property.

(4) A tower or related wireless telecommunications facility shall contain no symbols whatever. The fencing surrounding the wireless telecommunications equipment building shall contain the appropriate number of signs to warn the public of danger and also at least two signs stating "NO TRESPASSING", and a sign identifying the wireless telecommunications service provider, of a type, size, color and allotment as approved by the Planning Commission.

(e) Certification of a Registered Structural Engineer. Prior to approval of a site plan to construct and locate a wireless telecommunications tower and related facility, an independent certified structural engineer shall be engaged by the City, whose services shall be paid for in total by the applicant. The City may pay for such services in advance for the purpose of timeliness and invoice the applicant for charges. The applicant shall reimburse the City in full within thirty (30) days of receipt of such invoice. The applicant may also be responsible for obtaining independent opinions of other technical experts for the purpose of verifying the safety and structural integrity of towers and other wireless telecommunications facilities, including, but not limited to, representatives of the FCC, the FAA and a person qualified to certify the safety of and comment upon radio frequency emission, in a manner as determined acceptable to the City, as directed by the Planning Commission.

(f) Registration of Wireless Telecommunications Providers. All wireless telecommunications services providers, including governmental, public and quasi-public providers, who operate or propose to operate within the corporate limits of the City, shall register with the Zoning Inspector on forms and in a manner as prescribed by the Zoning Inspector. At a minimum, the following information shall be required:

(1) The identity and legal status of the provider, including business affiliations.

(2) The name, address, telephone number, fax number and electronic mail address (if available), of the officer, agent or employee responsible for the accuracy of the registration statement. It shall be the responsibility of the provider to keep this information up to date.

(3) A narrative and map description of all the provider's existing or proposed wireless telecommunications towers and related facilities in the City and elsewhere.

(4) A description of the wireless telecommunications and related facilities in the City and elsewhere.

(5) Written information sufficient into the opinion of the Planning Commission to verify that the provider has applied for and received certification and approval as a licensed wireless telecommunications provider by the FCC to operate in the State.

(6) Any other information reasonably related to the application and the probable, substantive effects of locating a wireless telecommunications tower and related facility in the City, as may be required by the Planning Commission.

(g) Design Criteria.

(1) Camouflaging of Towers.

A. Towers shall be located in a landscaped setting pursuant to Section 1125.01(d)(1). The Planning Commission may require additional landscaping. Camouflaging of towers is especially encouraged only if logical and technically feasible. Such camouflaging may take the form of erecting a tower which resembles or mimics another object, such as a tree or flag pole. Camouflaging may also consist of placing antennas on existing structures such as water towers or buildings in such a way that they are not easily detected and cannot be seen by the naked eye from a long distance.

B. If antennas are collocated on existing structures which are not towers as defined by this chapter, it shall be presumed that such antennas are camouflaged unless their positioning and placement causes them to be easily seen and discerned by a reasonable person as being wireless telecommunications antennas.

C. Antennas may be placed on trees, if technically feasible, and if such placement would provide wireless telecommunications services to the residents and businesses of the City equal to that if such antennas were placed on towers. If antennas are placed on trees, they shall be camouflaged.

D. A building or other structure may be a prop only, which is unused and unusable as anything but a device to camouflage an antenna. It shall be aesthetically pleasing and maintained continuously.

E. Camouflaging, whatever variety and however employed, shall be of a type compatible with the immediate surrounding area and the City at large in color, design, material, appearance and its method of mimicry. For example, an artificial oak tree 100 feet in height would satisfy this requirement. An artificial palm tree would not.

F. Antennas may be placed on facades of buildings if colored and designed to match the color, texture and style of the building to which it is attached, and shall be attached at least twenty-five (25) feet above grade.

(2) Color of Towers. All towers of any type shall be of a color which blends into the natural color of the immediate area or skyline, but shall not be painted at all if, by coloring the tower, it would be more visible to the naked eye from a long distance than if it were erected in the ordinary tone of its construction materials, such as the grayish color of galvanized steel. If towers are painted, they shall be maintained within the requirements of the City's property maintenance ordinance.

(3) Historic Districts. In any district which shall become so demarcated as a historically and/or architecturally significant district, or as a special district recognized and set apart as significant to the community's heritage or traditions, wireless telecommunications towers and related facilities shall not be located, unless it is proven that in order to provide wireless telecommunications service, such towers or facilities may not be located elsewhere within the City. Any tower and related wireless communications facility, including the equipment building, shall be camouflaged in such districts as herein described. Prior to approval, the provider shall demonstrate by clear and convincing evidence that if towers and related wireless telecommunications facilities are located in districts as herein described, they shall not adversely affect the natural or man-made environment or the architectural setting, and that their

location shall not pose any reasonable risk to the health and safety of residents within 300 feet of the boundaries of a district as herein described.

(4) Towers of Excessive Height. Wireless telecommunications towers higher than 200 feet or located within 2,500 feet of any airport runway, public or private, shall be registered with the FAA. The provider/operator of such tower shall submit written verification of such registration with the FAA. Lighting shall be required for that part of towers in excess of 200 feet or as otherwise required by the FAA. When such lighting is required by the FAA or other governmental authority, and the zoning lot on which a tower is located abuts any residential zoning district, it shall be oriented inward of the zoning lot and shall not project or be cast onto all abutting zoning lots within residential zoning districts.

(5) National Environmental Protection Act. The location, construction and operation of towers and related wireless telecommunications facilities shall comply with all applicable requirements and laws of the National Environmental Protection Act, Chapter 19, as may from time to time be amended.

(6) Advertising and Identification.

A. Identification of towers and related wireless telecommunications facilities shall be permitted if required by the FCC, the FAA, the Federal or State EPA, OSHA or other governmental agency for regulation or identification purposes as necessary pursuant to the Telecommunications Act of 1996, as may from time to time be amended, or other applicable law. The City shall be permitted to require identification signs.

B. No advertising whatever shall be permitted on towers or related wireless telecommunications facilities, unless required as indicated in paragraph A hereof or by other action of law. The only signs permitted shall be those signs indicating danger and no trespassing signs, or other signs important to the identification of the tower or facility as determined by the Zoning Inspector and/or the Planning Commission. All such signs shall be permanently attached to the tower or other wireless telecommunications structure and shall be placed at least four (4) feet above grade. The only colors permitted shall be black, white, red, yellow, orange or any combination of these colors. Signs shall not be illuminated in any manner. Luminous paint may be used on signs if approved by the Zoning Inspector and/or the Planning Commission.

(h) Streets and Parking.

(1) All zoning lots on which are located towers and related wireless telecommunications facilities shall abut a public right-of-way.

(2) The type and construction of such roads shall be regulated as otherwise set forth in this code.

(3) If available, existing parking shall be used and not expanded. Each zoning lot on which is located a tower and related wireless telecommunications facility shall have sufficient parking to accommodate service of the site. A minimum of one (1) parking space and a maximum of three (3) parking spaces shall be provided. Parking shall appear on the site plan for the wireless telecommunications facility as regulated by this code.

(4) If the wireless telecommunications facility is fully automated, a maximum of two (2) parking spaces shall be required for maintenance workers. If the site is not fully automated, a maximum of three parking spaces shall be permitted. Parking specifications shall be as regulated in this code.

(i) Accessory Buildings. All accessory or utility buildings and structures that are not a tower or related wireless telecommunications facility as defined in this chapter shall be architecturally designed to blend in with the surrounding area and shall meet the minimum setback requirements

of the underlying zoning district. Landscaping and other regulations of this chapter shall also apply. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the surrounding neighborhood.

(j) Demonstration of Necessity.

(1) To assure that the City's and the public's objectives are achieved, the wireless telecommunications service provider requesting permission to locate a tower and related wireless telecommunications facility shall produce written evidence of contact with all wireless telecommunications service providers who supply service within the distribution sphere of the proposed facility. The applicant-provider shall inquire about potential collocation opportunities at all technically feasible locations in, or which could service, the City.

(2) To adequately demonstrate the need at a particular location the applicant-provider shall provide following information as part of the demonstration of necessity:

- A. Coverage areas of existing sites within 2.5 miles;
- B. Propagation maps from proposed site at increments of twenty-five (25) feet starting at fifty (50) feet in height up to proposed height;
- C. List of existing structures within 2.0 miles of proposed site that are at least forty (40) feet in height along with anticipated signal strengths from those structures;
- D. In-building and in-vehicle coverage areas in relation to paragraph (b)(2) above;
- E. Description of anticipated coverage areas and coverage signal strengths in dBm;
- F. Written proof of contact with existing wireless telecommunication sites within one mile of proposed site. Contact shall request availability of collocation at existing site. The application shall include written responses from the contacted sites. Propagation maps from existing sites within the one-mile radius shall be included to show the differences in coverage areas;
- G. Frequency, modulation and class of service of radio or other transmitting equipment;
- H. The number, type and design of the proposed tower and antennas and any calculations used to determine the proposed number of collocations available at the proposed site;
- I. List of other service providers contacted in good faith that may be willing to locate at the proposed site;
- J. Certification that the NEIR levels at the proposed site are within the permitted threshold levels as established by the FCC;
- K. Name, address, phone number and accreditation of person submitting maps and report;
- L. Fall zone map identifying all existing structures within the fall zone (a.k.a. total height) of the proposed tower; and
- M. Line of site drawings which will provide approximate views from adjacent properties.

(3) The City shall contract with a competent expert to assist in evaluating the need for a new tower, antenna and related wireless telecommunications facilities at a particular location. This evaluation shall be completed prior to the application being considered by Planning Commission. The applicant shall be afforded an opportunity to provide rebuttal to the expert's review and re-review prior to the formal departmental review and submission to Planning Commission in accordance with the Planning Commission Rules and Regulations. This study shall not be required for collocations or antenna systems being proposed for attachments to existing buildings and structures unless the tower is proposed to extend beyond twenty-five (25) feet in height over the attachment point.

(4) An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of a competent expert for the evaluation and consultation to the City in connection with the review of any application. The initial deposit shall be eight thousand dollars

(\$8,000). The placement of the eight thousand dollars (\$8,000) with the City shall precede the application to Planning Commission. The City will maintain a separate escrow account for all such funds. The City's expert shall invoice the City for its services in reviewing the application. If at any time during the process this escrow account has a balance less than three thousand dollars (\$3,000), the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least five thousand dollars (\$5,000). Such funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The total amount of the funds needed as set forth hereof may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. The maximum fee associated with the consultant review shall be seventeen thousand dollars (\$17,000).

(k) Expansion Of A Nonconforming Use. A wireless telecommunications tower or related facility, whether a collocation, a new tower or on an existing structure, shall not be considered an expansion of a nonconforming use pursuant to Section 1127.05: Nonconforming Uses.

(l) Inventory And Trading. The Zoning Inspector shall compile a list of all tower and related wireless telecommunications facilities, logging by use of a map and file, and may update such map and file from time to time, based on relevant information furnished by wireless telecommunications providers or others.

(m) Non-Ionizing Electromagnetic Radiation (Nier) Exposure. No wireless tower or related wireless telecommunications facility shall be located in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to the public health, including, but limited to, human or animal exposure to non-ionizing electromagnetic radiation. A wireless telecommunications facility shall not produce at any time power densities which exceed the American National Standards Institute (ANSI) C95.1-1992 standard for human exposure, or any more reasonably restrictive standard subsequently adopted or promulgated by the City, the County, the State or the United States of America.

(n) Abandonment. Any antenna, tower or related wireless telecommunications facility which is not operated for its intended purpose for a period of 180 days shall be considered abandoned, and the tower and antenna shall be removed at the expense of the wireless telecommunications provider within ninety (90) days of the issuance date of notice to remove such tower and antenna.

(o) Supplemental Provisions.

(1) The City may require that any new tower be constructed to facilitate future collocation whenever technically feasible, as regulated by this chapter.

(2) The City may lease or rent space on towers to other public or private wireless telecommunications providers for the purpose of placing antennas to provide separate wireless telecommunications services. Fees obtained through collocation when the City is the owner of a tower or related wireless telecommunications facility, even amounts in excess of cost, shall be permissible, if reasonably related to the maintenance of wireless telecommunications towers and facilities and the mitigation of any adverse impacts thereof.

(3) The City may prepare and use public land for wireless telecommunications towers and related facilities for the purpose of providing for modern, effective wireless telecommunications services for the public and regulating their location to promote the general welfare.

(4) The City and all competing wireless telecommunications service providers shall show good faith in their dealings with one another and diligently negotiate with each other in all matters

concerning locating and sharing wireless telecommunications towers and related facilities.

(p) Approval Procedure.

(1) Applications for approval to locate towers, antennas and related wireless telecommunications facilities shall be controlled as set forth for conditional uses in Section 1105.03: Conditional Uses, and the applicant-provider shall apply for a site plan review as set forth in Section 1105.06: Site Plan Review. This requirement shall not apply to the collocation of antennas and wireless telecommunications equipment upon approved conditional use wireless telecommunications facilities in good standing as set forth in Subsection 1125.01(p)(3).

(2) Prior to the submission of an application for a new conditional use permit the applicant shall schedule a preliminary review meeting with the Zoning Inspector to review the required documents. At the preliminary review meeting a checklist shall be reviewed to verify the information being submitted and to identify missing information. The City shall reserve the right to have representation from the outside review consultant at the preliminary review meeting.

(3) In addition to the requirements set forth in Subsection 1125.01(p)(1), the following shall be submitted in an application for approval:

A. A written document certifying that the applicant is a wireless telecommunications service provider licensed by the FCC. No tower owner shall be permitted to submit an application for a new conditional use permit for a new tower without providing written proof that commits a commercial wireless telecommunications provider to the proposed site.

B. An affidavit swearing that the applicant shall comply with all regulations of the Telecommunications Act of 1996, as may from time to time be amended.

C. A written document which certifies that the applicant shall locate no tower in violation of laws governed by the FAA. Credentials of the affiant shall be included as part of this requirement.

D. A signed and stamped report from a certified, structural engineer which:

- i. Describes the tower height and design, including a cross section and elevation;
- ii. Documents the total tower height and its potential for mounting positions for at least three (3) additional collocated antennas, their minimum separation distances, and general ability for accommodating collocation;
- iii. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
- iv. Geotechnical report stating soil bearing capacities for bearing loads and foundation design requirements;
- v. Certifies that the tower is structurally sound and, if it should fail, under what conditions it might fail and the likely result thereof including a fall zone map which identifies all existing structures within the height of the proposed tower; and
- vi. Certifications shall include the structural and soil engineer's stamp and registration number.

E. For all private, commercial wireless telecommunications service providers, a letter of intent committing the provider or tower owner and his or her successors and assignees, to permit collocation if technically feasible, and if another provider agrees in writing to meet reasonable terms and conditions of collocation.

F. A signed and stamped report from a certified electrical engineer or other professional having the expertise to attest to:

- i. The electrical and radio frequency safety of an antenna receiving or transmitting radio waves associated with wireless telecommunications;
- ii. Statement regarding levels on non-ionized electromagnetic radiation (HEIR) pursuant to

Section 1125.01(m) by an individual qualified to make such statement. The qualifications of such individual shall be submitted in writing with the report.

iii. The intended transmission and the maximum effective radiated power of the antennas to be used.

iv. Certification that the proposed antennas will not cause interference with other telecommunication devices or other wireless equipment.

v. Direction of the lobes for maximum coverage capability and the associated radiation of the antennas.

G. The applicant shall include addresses for all residential and/or businesses within the minimum 300 feet notification limits. The Zoning Inspector shall reserve the right to request a greater notification boundary.

(4) Collocation of antennas and wireless telecommunications equipment on previously approved wireless telecommunications facilities shall not be subject to the approval procedure set forth in this section, but shall be subject to administrative review.

(5) All approved conditional use wireless telecommunication sites shall undergo a structural assessment for re-certification every five (5) years from the date of issuance of the occupancy permit from the Building Department. Said review shall be initiated in the fourth year by the Zoning Inspector. The assessment must be completed by a licensed structural engineer to verify the structural integrity of the structure. Such report shall be submitted in writing, signed and stamped with the engineer's registration number to the Zoning Inspector at least thirty (30) days prior to the expiration of the conditional use permit. Said report must identify any required maintenance that is needed and the tower owner shall provide details as to when the repairs shall be completed. If repairs are required, as identified by the structural engineer, the Zoning Inspector shall reserve the right to grant a temporary extension to the permit until such time as the repairs are completed. Once the repairs are made the structural engineer shall re-review the site and state if the structure is sound. The applicant shall be responsible for all costs associated with the hiring of the structural engineer.

(q) Wireless Telecommunications Glossary. Nomenclature unique to or commonly associated with the wireless telecommunications industry shall be understood to refer to that industry and to what this chapter regulates, and is made part of the definitions of this code, as may from time-to-time change. An extensive wireless telecommunications glossary may be kept on file in the Building Department and may be supplemented and edited as determined by the Zoning Inspector to more effectively and efficiently execute this chapter.

(r) Application Fee. The City may charge a fee in addition to the Planning Commission agenda fee for site plan review to process an application to locate a tower, antenna or related wireless telecommunications facility in the City for the purpose of reimbursing the public for the time incurred and the skills employed by officials, employees and agents in processing applications in the amount as set forth in Section 1361.16 of the codified ordinances.

(s) Leasing By The City; Business Fees. The City may lease or rent at prevailing market rates the use of existing or new towers and related wireless telecommunications facilities to private or public service providers for collocation of antennas. A private or public service provider, or the City, may be the sole user of a tower, antenna or related wireless telecommunications facility. The City may itself lease or rent, or construct, place, modify and/or maintain, towers and related wireless telecommunications facilities on public or private property for exclusive or shared operations with other private or public service providers, and may charge any reasonable leases, fees or permits in a manner as would a private wireless telecommunications service provider under similar business

circumstances.

(Ord. 26-22. Passed 4-26-22.)

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- Ordinances of Sheffield Lake, OH
- ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- ORDINANCE NO. 116-84
- ORDINANCES OF SHEFFIELD LAKE
- effective part of the City's emergency response network; and
- ording to the Official Zoning Map as a conditional use
- amended
- order to accommodate the communications needs of residents and businesses while protecting the health, safety and general welfare, the City recommends and encourages the placement of
- order of preference:
- order to locate wireless telecommunications towers and related facilities in residential zoning districts, the applicant-service provider shall demonstrate to the Planning Commission
- effective, and that in order to provide wireless telecommunications services to the residents and businesses in such a manner which serves their best interests, such towers and facilities m
- ordinate and in deference to the use of private, residentially zoned or used property, by minimizing the visual effect on adjoining and vicinity residential properties, and to minimiz

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- ording to the following requirements:
- ordinary tone of it construction materials, such as the grayish color of galvanized steel
- ordinance. (3) Historic Districts
- order to provide wireless telecommunications service, such towers or facilities may not be located elsewhere within the City
- amended, or other applicable law
- orded an opportunity to provide rebuttal to the expert's review and re-review prior to the formal departmental review and submission to Planning Commission in accordance with the Plan
- adopted or promulgated by the City, the County, the State or the United States of America
- effective wireless telecommunications services for the public and regulating their location to promote the general welfare
- effective radiated power of the antennas to be used
- effectively and efficiently execute this chapter
- ordinances
- Ord. 26-22
- Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality
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1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

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CERTIFICATION

ROSTER OF OFFICIALS

ADOPTING ORDINANCE NO. 116-84

COMPARATIVE SECTION TABLE

TABLES OF SPECIAL ORDINANCES OF SHEFFIELD LAKE

CHARTER

PART ONE - ADMINISTRATIVE CODE

PART THREE - TRAFFIC CODE

PART FIVE - GENERAL OFFENSES CODE

PART SEVEN - BUSINESS REGULATION CODE

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

PART ELEVEN - PLANNING AND ZONING CODE

CHAPTER 1101 General Provisions

CHAPTER 1103 Administration and Decision-Making Bodies

CHAPTER 1105 Review Procedures

CHAPTER 1107 Zoning Districts and Principal Use Regulations

CHAPTER 1109 Planned Residential Developments (PRD)

CHAPTER 1111 Accessory and Temporary Use Regulations

CHAPTER 1113 General Development Standards

CHAPTER 1115 Landscaping and Screening Standards

CHAPTER 1117 Parking and Access Standards

CHAPTER 1119 Signs

CHAPTER 1121 Subdivision Design Standards

CHAPTER 1123 Wind Energy Systems

CHAPTER 1125 Wireless Telecommunications

1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

CHAPTER 1127 Nonconformities

CHAPTER 1129 Enforcement and Penalties

CHAPTER 1131 Definitions

PART THIRTEEN - BUILDING CODE

PART FIFTEEN - FIRE PREVENTION CODE

OH

Sheffield Lake

Codified Ordinances of Sheffield Lake, OH

1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

CHAPTER 1125 Wireless Telecommunications

CHAPTER 1125

Wireless Telecommunications

1125.01 Wireless telecommunication facilities.

1125.02 Use of public right-of-way for small cell wireless facilities and wireless support structures.

1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

(a) Purpose.

(1) The purpose of this section is to provide for the common good and preserve the enjoyment of private property through the regulation of the construction, placement and modification of

wireless telecommunications systems, including telecommunications towers and associated facilities, while ensuring the ability of the consumer to use and enjoy telecommunications services of all types, and to protect the right of private and public enterprise to exercise free trade.

(2) To the extent permitted by law, the City shall apply the regulations set forth in this section to specifically accomplish the following:

A. Accommodate the need for wireless telecommunications towers and facilities to meet the public's demand for the use and convenience of wireless personal cellular telecommunications service and wireless internet access, while regulating their location and number in the City;

B. To encourage the location of towers and facilities on nonresidential land;

C. To minimize the total number of towers and facilities;

D. To ensure that towers and antennas are configured in such a way as to minimize adverse visual impact by design, careful siting, landscape screening, camouflaging and innovative techniques brought about through the advance of science and technology;

E. To avoid damage to adjacent properties from tower failure through competent engineering, construction and erection of towers;

F. To ensure that a competitive and broad range of wireless personal communications services and high-quality telecommunications infrastructures are provided to serve the residents, businesses, public sector and visitors to the City;

G. To create and preserve a wireless telecommunications facilities system which will serve as an effective part of the City's emergency response network; and

H. To accommodate the public's demand for present day wireless personal communications services through these standards, so that changing technologies will continue to serve these needs, while concurrently preserving the City's aesthetic and ecological integrity, so that residents of the future may continue to enjoy the comfortable living standards of the Sheffield Lake community.

(b) Location Criteria.

(1) Wireless telecommunications facilities, towers and related structures may be located in any zoning district and located according to the Official Zoning Map as a conditional use. Generally, wireless telecommunications towers are objectionable in residential areas because their use is industrial in nature, and may be objectionable in the community at large because they are frequently considerably taller than surrounding structures, causing them to be seen from long distances. Their location is therefore regulated as permitted by the Telecommunications Act of 1996, as may from time to time be amended.

(2) In order to accommodate the communications needs of residents and businesses while protecting the health, safety and general welfare, the City recommends and encourages the placement of wireless telecommunications facilities and towers in nonresidential areas, in the following order of preference:

A. City-owned property;

B. Industrial areas;

C. Other nonresidential districts deemed appropriate by review of the Planning Commission and approval of Council.

(3) When a wireless telecommunications facility is located in conformity with this chapter, and the antenna is collocated as herein defined, and is attached to an institutional, recreational, public utility, office, industrial or commercial structure or building, equipment and apparatus supporting such facility shall be stored on the premises inside the wireless telecommunications equipment

building or other structure on the premises of the facility.

(c) Towers. In addition to the definitions set forth in this code, "towers" shall be regulated by this section.

(1) Towers Located in Nonresidential Zoning Districts.

A. A wireless telecommunications tower and related facilities are permitted as the sole use on a zoning lot, and may be permitted, by approval of the Planning Commission, on zoning lots containing other uses where existing structures enable collocation, including on City owned property.

B. The minimum lot size on which a wireless telecommunications tower and related facilities are placed shall be the minimum lot size required for the underlying zoning district.

C. For purposes of this chapter only, any other provision of this Code notwithstanding, the setback for a tower of any variety, including a monopole, shall be measured from the base of the tower or monopole at the point where it is placed in the ground to the property line, or to the nearest residential dwelling located within the property and part of a multi-use non-residentially zoned parcel. The exception to this regulation is where a tower, monopole, antenna, whether camouflaged or not, or any apparatus defined herein as a tower, is affixed to any existing building, and the use of it as a tower for wireless telecommunications and wireless internet access is conditionally approved by the Planning Commission.

i. An equipment building, and all other structures except the tower, shall be set back the minimum distance required in the underlying zoning district.

ii. In Industrial zoning districts, the setback for the tower shall be at least twenty-five percent (25%) of the total height of the tower. A minimum of fifty (50) feet shall be required.

iii. In nonindustrial zoning districts, excluding the conditions listed in paragraphs 1125.01(c)(1)C.iv and 1125.01(c)(1)C.v hereof, the tower shall be set back fifty percent (50%) of the total height of the tower. A minimum of fifty (50) feet shall be required.

iv. In nonindustrial zoning districts or in the Industrial zoning districts where the lot on which a tower is located abuts another lot on which is located, a school of any type, including institutions of higher learning beyond high school level, public or private parks (but not including golf courses), hospitals, playgrounds, day-care centers, health centers or other human services and educational uses, as determined by the Planning Commission to apply to this subsection, the tower shall be set back a distance equal to the total height of the tower.

v. In nonindustrial zoning districts and in Industrial zoning districts where a lot on which a tower is located abuts any lot within a residential zoning district of any classification, the tower shall be set back seventy-five percent (75%) of the total height of the tower. A minimum of seventy-five (75) feet shall be required.

vi. Guyed wires may be anchored within the required setback area only if the tower itself is placed in conformity with this chapter regarding its setbacks, but guy wires and other similar supporting devices shall not be anchored any less than ten (10) feet from any adjoining parcel or zoning lot, regardless of its underlying zoning district.

(2) Towers in Residential Zoning Districts.

A. In order to locate wireless telecommunications towers and related facilities in residential zoning districts, the applicant-service provider shall demonstrate to the Planning Commission that there is sound geographic reason for doing so, that offers to collocate with other providers within the City or neighboring communities have proven ineffective, and that in order to provide wireless telecommunications services to the residents and businesses in such a manner which serves their best interests, such towers and facilities may only be placed in a residential zoning district.

B. The setbacks for towers and related facilities in residential zoning districts shall be the same as in nonresidential zoning districts, pursuant to paragraph 1125.01(c)(1)C hereof.

C. Towers supporting amateur radio antennas and conforming to all applicable provisions of this chapter shall be permitted in residential zoning districts, but not as the sole use of a lot, and only in the rear yard of such parcels, as defined in this Code.

D. The City, and any other governmental entity, may locate wireless telecommunications towers and related facilities in residential zoning districts, but only on publicly owned property, even as the sole use of the lot.

i. The City may locate wireless telecommunications towers and related facilities in residential zoning districts to provide wireless telecommunications.

ii. The City may contract with private wireless telecommunications service providers to locate a tower and related facilities on City-owned property in residential zoning districts, provided that all provisions of this chapter are followed.

E. In residential zoning districts, collocation shall be especially encouraged.

F. In residential zoning districts, all towers shall be camouflaged using the best and most advanced techniques possible, pursuant to Section 1125.01(g) unless waived by the Planning Commission for cause.

G. If wireless telecommunications towers and related facilities are located in residential zoning districts, sufficient landscaping, buffering and/or screening shall be required, and shall be considered paramount to the establishment of such structures in all residential zoning districts. (See also Section 1125.01(d).)

H. Wireless telecommunications towers and related facilities are permitted on land which has been established as permanent open space or a park, subject to the following conditions:

i. The open space shall be owned and overseen by the City, the County, the State, the United States of America, other governmental or quasi-governmental agencies, a private homeowners association or a private, non-profit conservation organization.

ii. If in a residential zoning district, the tower shall not exceed 200 feet in height, including antennas.

iii. The wireless telecommunications equipment building shall not exceed twenty (20) feet in height.

iv. The maximum size of the wireless telecommunications equipment building shall be 300 square feet, or, if more than one is located on a given zoning lot, 700 square feet in the aggregate.

v. Notwithstanding any other setback provisions of this chapter, the tower shall be set back a minimum of 200 feet from any single-family residential zoning district.

I. Towers and related wireless telecommunications facilities shall be placed, constructed and modified subordinate and in deference to the use of private, residentially zoned or used property, by minimizing the visual effect on adjoining and vicinity residential properties, and to minimize the visual, often unattractive, impact that towers and related wireless telecommunications facilities create when viewing them from a distance.

(3) Design Requirements for Towers and Facilities.

A. Any wireless telecommunications tower shall be designed, structurally and electrically, to accommodate both the applicant's antenna and at least comparable antennas for at least two additional service providers if the tower is at least 100 feet in total height, or for one additional service provider if the tower is at least sixty (60) feet in total height. Towers shall be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at various heights.

B. Towers and antennas, as well as all wireless telecommunications facilities, shall be designed and situated upon a lot so as to minimize their visibility and to the greatest extent possible to blend into the surrounding environment.

C. Towers shall be designed, constructed, erected and maintained with the utmost care for the safety of persons and property. Certification attesting to the structural integrity of towers shall comply with the provisions of Section 1125.01(e).

(4) Tower Height.

A. The maximum height of a tower shall be 200 feet unless a technically logical reason for locating a higher tower is demonstrated to the satisfaction of the Planning Commission and Council to be in order, on a case-by-case basis, by the wireless telecommunications service provider making the request. When a higher tower is required by provision of law consistent with the Telecommunications Act of 1996, as may from time to time be amended, the provider shall submit written verification of such fact. Towers less than 200 feet in height are especially encouraged.

B. The physical ability to collocate antennas on any tower shall be required on all towers higher than sixty (60) feet in height, unless it can be demonstrated that, because of the type of tower involved for a given proposal and/or for other technically logical reasons, the physical ability to collocate on such a tower above sixty feet in height is not feasible or desired. A tower 100 feet or higher shall be designed to have sufficient structural capacity to accommodate at least three additional providers.

(5) A tower and its related wireless telecommunications equipment building and other structures, landscaping and other features, if any, shall be located on a single zoning lot. The provider shall locate a tower and related wireless telecommunications facilities only on a zoning lot of sufficient dimensions and conditions to accommodate the overall facility, tower, etc., so that all minimum setbacks and any other zoning requirements of the underlying zoning district are met.

(6) Underground wireless telecommunications equipment buildings are especially encouraged, especially on zoning lots in or abutting residential zoning districts where a tower is placed.

(d) Additional Regulations. The provisions of this section pertain to towers and all other wireless telecommunications facilities and structures, and shall be in addition to the regulations set forth in Section 1125.01(c).

(1) All towers and related wireless telecommunications facilities shall be located in a landscaped setting. A landscaped buffer area of not less than ten (10) feet in depth shall be placed between the wireless telecommunications facility and the public right-of-way, residential zoning district and any adjacent residential use, regardless of the underlying zoning district thereof. Such buffer area shall, at a minimum, consist of dense foliage and vegetation, of at least partially evergreen species, not less than the height of any equipment proposed for the site but not less than eight feet in height. Landscaping shall be continuously maintained and promptly reconditioned, if necessary. Other landscaping may be required by the Planning Commission. The arrangement of landscaping and the overall design thereof within a zoning lot on which a wireless telecommunications tower and related facility is placed may be considered by the Planning Commission.

(2) Screened fencing shall be provided for appearance, public safety and personal security, according to the following requirements:

A. Height.

- i. The minimum height of any fencing shall be three (3) feet.
- ii. The maximum height in any residential zoning district shall be six (6) feet.
- iii. The maximum height in any nonresidential zoning district shall be eight (8) feet.

B. In any zoning district, the screened fencing shall consist of a chain link fence, as defined in this code for the underlying zoning district. Fencing in an industrial zoning district may be capped with barbed wire to a maximum of twelve (12) inches. The barbed wire portion, if any, shall be included in the measurement of the total height of such fencing.

C. Fencing may be unpainted or painted to blend into the surrounding area.

D. Access to the tower and related wireless telecommunications facility shall only be through a locked gate, properly maintained and secured twenty-four hours per day. The City shall not be responsible for any damage to the tower or other auxiliary structures, and shall be held harmless from any liability of any kind relating to damage, destruction, misfeasance of the tower or auxiliary structures, and from any personal injury to any party whomever.

(3) Except as required by law or safety factors as determined by the City, an antenna or tower shall not be illuminated and lighting fixtures or signs, other than those sanctioned by this chapter, shall not be attached to an antenna or tower. Security lighting shall be permitted for the wireless telecommunications equipment building and other auxiliary structures, if any. Any permitted lighting shall be situated and directed so as not to emit light directly or indirectly onto any adjoining residential property, and in any zoning district, such lighting shall be designed, placed, and directed to minimize its emission and glare onto any adjoining property.

(4) A tower or related wireless telecommunications facility shall contain no symbols whatever. The fencing surrounding the wireless telecommunications equipment building shall contain the appropriate number of signs to warn the public of danger and also at least two signs stating "NO TRESPASSING", and a sign identifying the wireless telecommunications service provider, of a type, size, color and allotment as approved by the Planning Commission.

(e) Certification of a Registered Structural Engineer. Prior to approval of a site plan to construct and locate a wireless telecommunications tower and related facility, an independent certified structural engineer shall be engaged by the City, whose services shall be paid for in total by the applicant. The City may pay for such services in advance for the purpose of timeliness and invoice the applicant for charges. The applicant shall reimburse the City in full within thirty (30) days of receipt of such invoice. The applicant may also be responsible for obtaining independent opinions of other technical experts for the purpose of verifying the safety and structural integrity of towers and other wireless telecommunications facilities, including, but not limited to, representatives of the FCC, the FAA and a person qualified to certify the safety of and comment upon radio frequency emission, in a manner as determined acceptable to the City, as directed by the Planning Commission.

(f) Registration of Wireless Telecommunications Providers. All wireless telecommunications services providers, including governmental, public and quasi-public providers, who operate or propose to operate within the corporate limits of the City, shall register with the Zoning Inspector on forms and in a manner as prescribed by the Zoning Inspector. At a minimum, the following information shall be required:

(1) The identity and legal status of the provider, including business affiliations.

(2) The name, address, telephone number, fax number and electronic mail address (if available), of the officer, agent or employee responsible for the accuracy of the registration statement. It shall be the responsibility of the provider to keep this information up to date.

(3) A narrative and map description of all the provider's existing or proposed wireless telecommunications towers and related facilities in the City and elsewhere.

(4) A description of the wireless telecommunications and related facilities in the City and elsewhere.

(5) Written information sufficient into the opinion of the Planning Commission to verify that the provider has applied for and received certification and approval as a licensed wireless telecommunications provider by the FCC to operate in the State.

(6) Any other information reasonably related to the application and the probable, substantive effects of locating a wireless telecommunications tower and related facility in the City, as may be required by the Planning Commission.

(g) Design Criteria.

(1) Camouflaging of Towers.

A. Towers shall be located in a landscaped setting pursuant to Section 1125.01(d)(1). The Planning Commission may require additional landscaping. Camouflaging of towers is especially encouraged only if logical and technically feasible. Such camouflaging may take the form of erecting a tower which resembles or mimics another object, such as a tree or flag pole. Camouflaging may also consist of placing antennas on existing structures such as water towers or buildings in such a way that they are not easily detected and cannot be seen by the naked eye from a long distance.

B. If antennas are collocated on existing structures which are not towers as defined by this chapter, it shall be presumed that such antennas are camouflaged unless their positioning and placement causes them to be easily seen and discerned by a reasonable person as being wireless telecommunications antennas.

C. Antennas may be placed on trees, if technically feasible, and is such placement would provide wireless telecommunications services to the residents and businesses of the City equal to that if such antennas were placed on towers. If antennas are placed on trees, they shall be camouflaged.

D. A building or other structure may be a prop only, which is unused and unusable as anything but a device to camouflage an antenna. It shall be aesthetically pleasing and maintained continuously.

E. Camouflaging, whatever variety and however employed, shall be of a type compatible with the immediate surrounding area and the City at large in color, design, material, appearance and its method of mimicry. For example, an artificial oak tree 100 feet in height would satisfy this requirement. An artificial palm tree would not.

F. Antennas may be placed on facades of buildings if colored and designed to match the color, texture and style of the building to which it is attached, and shall be attached at least twenty-five (25) feet above grade.

(2) Color of Towers. All towers of any type shall be of a color which blends into the natural color of the immediate area or skyline, but shall not be painted at all if, by coloring the tower, it would be more visible to the naked eye from a long distance than if it were erected in the ordinary tone of its construction materials, such as the grayish color of galvanized steel. If towers are painted, they shall be maintained within the requirements of the City's property maintenance ordinance.

(3) Historic Districts. In any district which shall become so demarcated as a historically and/or architecturally significant district, or as a special district recognized and set apart as significant to the community's heritage or traditions, wireless telecommunications towers and related facilities shall not be located, unless it is proven that in order to provide wireless telecommunications service, such towers or facilities may not be located elsewhere within the City. Any tower and related wireless communications facility, including the equipment building, shall be camouflaged in such districts as herein described. Prior to approval, the provider shall demonstrate by clear and

convincing evidence that if towers and related wireless telecommunications facilities are located in districts as herein described, they shall not adversely affect the natural or man-made environment or the architectural setting, and that their location shall not pose any reasonable risk to the health and safety of residents within 300 feet of the boundaries of a district as herein described.

(4) Towers of Excessive Height. Wireless telecommunications towers higher than 200 feet or located within 2,500 feet of any airport runway, public or private, shall be registered with the FAA. The provider/operator of such tower shall submit written verification of such registration with the FAA. Lighting shall be required for that part of towers in excess of 200 feet or as otherwise required by the FAA. When such lighting is required by the FAA or other governmental authority, and the zoning lot on which a tower is located abuts any residential zoning district, it shall be oriented inward of the zoning lot and shall not project or be cast onto all abutting zoning lots within residential zoning districts.

(5) National Environmental Protection Act. The location, construction and operation of towers and related wireless telecommunications facilities shall comply with all applicable requirements and laws of the National Environmental Protection Act, Chapter 19, as may from time to time be amended.

(6) Advertising and Identification.

A. Identification of towers and related wireless telecommunications facilities shall be permitted if required by the FCC, the FAA, the Federal or State EPA, OSHA or other governmental agency for regulation or identification purposes as necessary pursuant to the Telecommunications Act of 1996, as may from time to time be amended, or other applicable law. The City shall be permitted to require identification signs.

B. No advertising whatever shall be permitted on towers or related wireless telecommunications facilities, unless required as indicated in paragraph A hereof or by other action of law. The only signs permitted shall be those signs indicating danger and no trespassing signs, or other signs important to the identification of the tower or facility as determined by the Zoning Inspector and/or the Planning Commission. All such signs shall be permanently attached to the tower or other wireless telecommunications structure and shall be placed at least four (4) feet above grade. The only colors permitted shall be black, white, red, yellow, orange or any combination of these colors. Signs shall not be illuminated in any manner. Luminous paint may be used on signs if approved by the Zoning Inspector and/or the Planning Commission.

(h) Streets and Parking.

(1) All zoning lots on which are located towers and related wireless telecommunications facilities shall abut a public right-of-way.

(2) The type and construction of such roads shall be regulated as otherwise set forth in this code.

(3) If available, existing parking shall be used and not expanded. Each zoning lot on which is located a tower and related wireless telecommunications facility shall have sufficient parking to accommodate service of the site. A minimum of one (1) parking space and a maximum of three (3) parking spaces shall be provided. Parking shall appear on the site plan for the wireless telecommunications facility as regulated by this code.

(4) If the wireless telecommunications facility is fully automated, a maximum of two (2) parking spaces shall be required for maintenance workers. If the site is not fully automated, a maximum of three parking spaces shall be permitted. Parking specifications shall be as regulated in this code.

(i) **Accessory Buildings.** All accessory or utility buildings and structures that are not a tower or related wireless telecommunications facility as defined in this chapter shall be architecturally designed to blend in with the surrounding area and shall meet the minimum setback requirements of the underlying zoning district. Landscaping and other regulations of this chapter shall also apply. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the surrounding neighborhood.

(j) **Demonstration of Necessity.**

(1) To assure that the City's and the public's objectives are achieved, the wireless telecommunications service provider requesting permission to locate a tower and related wireless telecommunications facility shall produce written evidence of contact with all wireless telecommunications service providers who supply service within the distribution sphere of the proposed facility. The applicant-provider shall inquire about potential collocation opportunities at all technically feasible locations in, or which could service, the City.

(2) To adequately demonstrate the need at a particular location the applicant-provider shall provide following information as part of the demonstration of necessity:

- A. Coverage areas of existing sites within 2.5 miles;
- B. Propagation maps from proposed site at increments of twenty-five (25) feet starting at fifty (50) feet in height up to proposed height;
- C. List of existing structures within 2.0 miles of proposed site that are at least forty (40) feet in height along with anticipated signal strengths from those structures;
- D. In-building and in-vehicle coverage areas in relation to paragraph (b)(2) above;
- E. Description of anticipated coverage areas and coverage signal strengths in dBm;
- F. Written proof of contact with existing wireless telecommunication sites within one mile of proposed site. Contact shall request availability of collocation at existing site. The application shall include written responses from the contacted sites. Propagation maps from existing sites within the one-mile radius shall be included to show the differences in coverage areas;
- G. Frequency, modulation and class of service of radio or other transmitting equipment;
- H. The number, type and design of the proposed tower and antennas and any calculations used to determine the proposed number of collocations available at the proposed site;
- I. List of other service providers contacted in good faith that may be willing to locate at the proposed site;
- J. Certification that the NEIR levels at the proposed site are within the permitted threshold levels as established by the FCC;
- K. Name, address, phone number and accreditation of person submitting maps and report;
- L. Fall zone map identifying all existing structures within the fall zone (a.k.a. total height) of the proposed tower; and
- M. Line of site drawings which will provide approximate views from adjacent properties.

(3) The City shall contract with a competent expert to assist in evaluating the need for a new tower, antenna and related wireless telecommunications facilities at a particular location. This evaluation shall be completed prior to the application being considered by Planning Commission. The applicant shall be afforded an opportunity to provide rebuttal to the expert's review and re-review prior to the formal departmental review and submission to Planning Commission in accordance with the Planning Commission Rules and Regulations. This study shall not be required for collocations or antenna systems being proposed for attachments to existing buildings and structures unless the tower is proposed to extend beyond twenty-five (25) feet in height over the attachment point.

(4) An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of a competent expert for the evaluation and consultation to the City in connection with the review of any application. The initial deposit shall be eight thousand dollars (\$8,000). The placement of the eight thousand dollars (\$8,000) with the City shall precede the application to Planning Commission. The City will maintain a separate escrow account for all such funds. The City's expert shall invoice the City for its services in reviewing the application. If at any time during the process this escrow account has a balance less than three thousand dollars (\$3,000), the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least five thousand dollars (\$5,000). Such funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The total amount of the funds needed as set forth hereof may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. The maximum fee associated with the consultant review shall be seventeen thousand dollars (\$17,000).

(k) Expansion Of A Nonconforming Use. A wireless telecommunications tower or related facility, whether a collocation, a new tower or on an existing structure, shall not be considered an expansion of a nonconforming use pursuant to Section 1127.05: Nonconforming Uses.

(l) Inventory And Trading. The Zoning Inspector shall compile a list of all tower and related wireless telecommunications facilities, logging by use of a map and file, and may update such map and file from time to time, based on relevant information furnished by wireless telecommunications providers or others.

(m) Non-Ionizing Electromagnetic Radiation (Nier) Exposure. No wireless tower or related wireless telecommunications facility shall be located in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to the public health, including, but limited to, human or animal exposure to non-ionizing electromagnetic radiation. A wireless telecommunications facility shall not produce at any time power densities which exceed the American National Standards Institute (ANSI) C95.1-1992 standard for human exposure, or any more reasonably restrictive standard subsequently adopted or promulgated by the City, the County, the State or the United States of America.

(n) Abandonment. Any antenna, tower or related wireless telecommunications facility which is not operated for its intended purpose for a period of 180 days shall be considered abandoned, and the tower and antenna shall be removed at the expense of the wireless telecommunications provider within ninety (90) days of the issuance date of notice to remove such tower and antenna.

(o) Supplemental Provisions.

(1) The City may require that any new tower be constructed to facilitate future collocation whenever technically feasible, as regulated by this chapter.

(2) The City may lease or rent space on towers to other public or private wireless telecommunications providers for the purpose of placing antennas to provide separate wireless telecommunications services. Fees obtained through collocation when the City is the owner of a tower or related wireless telecommunications facility, even amounts in excess of cost, shall be permissible, if reasonably related to the maintenance of wireless telecommunications towers and facilities and the mitigation of any adverse impacts thereof.

(3) The City may prepare and use public land for wireless telecommunications towers and related facilities for the purpose of providing for modern, effective wireless telecommunications

services for the public and regulating their location to promote the general welfare.

(4) The City and all competing wireless telecommunications service providers shall show good faith in their dealings with one another and diligently negotiate with each other in all matters concerning locating and sharing wireless telecommunications towers and related facilities.

(p) Approval Procedure.

(1) Applications for approval to locate towers, antennas and related wireless telecommunications facilities shall be controlled as set forth for conditional uses in Section 1105.03: Conditional Uses, and the applicant-provider shall apply for a site plan review as set forth in Section 1105.06: Site Plan Review. This requirement shall not apply to the collocation of antennas and wireless telecommunications equipment upon approved conditional use wireless telecommunications facilities in good standing as set forth in Subsection 1125.01(p)(3).

(2) Prior to the submission of an application for a new conditional use permit the applicant shall schedule a preliminary review meeting with the Zoning Inspector to review the required documents. At the preliminary review meeting a checklist shall be reviewed to verify the information being submitted and to identify missing information. The City shall reserve the right to have representation from the outside review consultant at the preliminary review meeting.

(3) In addition to the requirements set forth in Subsection 1125.01(p)(1), the following shall be submitted in an application for approval:

A. A written document certifying that the applicant is a wireless telecommunications service provider licensed by the FCC. No tower owner shall be permitted to submit an application for a new conditional use permit for a new tower without providing written proof that commits a commercial wireless telecommunications provider to the proposed site.

B. An affidavit swearing that the applicant shall comply with all regulations of the Telecommunications Act of 1996, as may from time to time be amended.

C. A written document which certifies that the applicant shall locate no tower in violation of laws governed by the FAA. Credentials of the affiant shall be included as part of this requirement.

D. A signed and stamped report from a certified, structural engineer which:

- i. Describes the tower height and design, including a cross section and elevation;
- ii. Documents the total tower height and its potential for mounting positions for at least three (3) additional collocated antennas, their minimum separation distances, and general ability for accommodating collocation;
- iii. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
- iv. Geotechnical report stating soil bearing capacities for bearing loads and foundation design requirements;
- v. Certifies that the tower is structurally sound and, if it should fail, under what conditions it might fail and the likely result thereof including a fall zone map which identifies all existing structures within the height of the proposed tower; and
- vi. Certifications shall include the structural and soil engineer's stamp and registration number.

E. For all private, commercial wireless telecommunications service providers, a letter of intent committing the provider or tower owner and his or her successors and assignees, to permit collocation if technically feasible, and if another provider agrees in writing to meet reasonable terms and conditions of collocation.

F. A signed and stamped report from a certified electrical engineer or other professional having the expertise to attest to:

i. The electrical and radio frequency safety of an antenna receiving or transmitting radio waves associated with wireless telecommunications;

ii. Statement regarding levels on non-ionized electromagnetic radiation (HEIR) pursuant to Section 1125.01(m) by an individual qualified to make such statement. The qualifications of such individual shall be submitted in writing with the report.

iii. The intended transmission and the maximum effective radiated power of the antennas to be used.

iv. Certification that the proposed antennas will not cause interference with other telecommunication devices or other wireless equipment.

v. Direction of the lobes for maximum coverage capability and the associated radiation of the antennas.

G. The applicant shall include addresses for all residential and/or businesses within the minimum 300 feet notification limits. The Zoning Inspector shall reserve the right to request a greater notification boundary.

(4) Collocation of antennas and wireless telecommunications equipment on previously approved wireless telecommunications facilities shall not be subject to the approval procedure set forth in this section, but shall be subject to administrative review.

(5) All approved conditional use wireless telecommunication sites shall undergo a structural assessment for re-certification every five (5) years from the date of issuance of the occupancy permit from the Building Department. Said review shall be initiated in the fourth year by the Zoning Inspector. The assessment must be completed by a licensed structural engineer to verify the structural integrity of the structure. Such report shall be submitted in writing, signed and stamped with the engineer's registration number to the Zoning Inspector at least thirty (30) days prior to the expiration of the conditional use permit. Said report must identify any required maintenance that is needed and the tower owner shall provide details as to when the repairs shall be completed. If repairs are required, as identified by the structural engineer, the Zoning Inspector shall reserve the right to grant a temporary extension to the permit until such time as the repairs are completed. Once the repairs are made the structural engineer shall re-review the site and state if the structure is sound. The applicant shall be responsible for all costs associated with the hiring of the structural engineer.

(q) Wireless Telecommunications Glossary. Nomenclature unique to or commonly associated with the wireless telecommunications industry shall be understood to refer to that industry and to what this chapter regulates, and is made part of the definitions of this code, as may from time-to-time change. An extensive wireless telecommunications glossary may be kept on file in the Building Department and may be supplemented and edited as determined by the Zoning Inspector to more effectively and efficiently execute this chapter.

(r) Application Fee. The City may charge a fee in addition to the Planning Commission agenda fee for site plan review to process an application to locate a tower, antenna or related wireless telecommunications facility in the City for the purpose of reimbursing the public for the time incurred and the skills employed by officials, employees and agents in processing applications in the amount as set forth in Section 1361.16 of the codified ordinances.

(s) Leasing By The City; Business Fees. The City may lease or rent at prevailing market rates the use of existing or new towers and related wireless telecommunications facilities to private or public service providers for collocation of antennas. A private or public service provider, or the City, may be the sole user of a tower, antenna or related wireless telecommunications facility. The City may itself lease or rent, or construct, place, modify and/or maintain, towers and related wireless

telecommunications facilities on public or private property for exclusive or shared operations with other private or public service providers, and may charge any reasonable leases, fees or permits in a manner as would a private wireless telecommunications service provider under similar business circumstances.

(Ord. 26-22. Passed 4-26-22.)

1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

(a) Purpose. The purpose of this chapter is to:

(1) Provide standards for the construction, installation, modification, operation, and removal of facilities and wireless support structures in the City's right-of-way to protect the health, safety, and welfare of the citizens of the City;

(2) Preserve the character of the City, including the City's neighborhoods, downtown, and historic districts;

(3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of facilities and wireless support structures; and

(b) Consent Required.

(1) Any person or entity seeking to collocate a small cell facility in the right-of-way, or to construct, maintain, modify, operate, or replace a wireless support structure in the right-of-way, shall first file a written application for a small cell use permit with the Director of Public Service in accordance with the requirements of this chapter, the Design Guidelines, R.C. Chapter 4939, and all applicable State and Federal laws and regulations.

(2) Applicants are strongly encouraged to contact the Director of Public Service and request a pre-application conference. This meeting will provide an opportunity for early coordination regarding proposed facilities, locations, design, application submittal, and the approval process in order to avoid any potential delays in the processing of an application and deployment of facilities in the City.

(3) A small cell use permit granted under this chapter shall not convey any right, title or interest in the right-of-way, but shall be deemed a permit only to use and occupy the public ways for the limited purposes and term stated in the permit, this chapter, and the Design Guidelines. Further, no small cell use permit shall be construed as any warranty of title.

(c) Permit Application Types. Applicants shall classify their application as one of the following types:

(1) Type 1: Eligible facilities requests.

(2) Type 2: Application for collocation of small cell equipment on a wireless support structure that does not constitute an eligible facilities request.

(3) Type 3: New wireless support structure. Such applications will address construction, modification, replacement, or removal of a wireless support structure within the right-of-way. At the time of application, applicants shall certify that small cell equipment will be placed on the wireless support structure within 180 days from the date the small cell use permit is issued.

(d) Consolidated Consent Applications.

(1) Pursuant to Ohio R.C. 4939.0312, an applicant may file one consolidated application for up to thirty (30) individual small cell facilities or thirty (30) individual wireless support structures as long as the facilities or structures for which consent is requested are substantially similar.

A. Small cell facilities shall be considered substantially similar when the small cell

equipment is identical in type, size, appearance and function.

B. Wireless support structures shall be considered substantially similar when the wireless support structures are identical in type, size, appearance and function and are to be located in a similar location.

C. Applications for facilities and wireless support structures cannot be commingled.

(2) The City may, at its discretion, require separate applications for any small cell facilities or wireless support structures that are not substantially similar.

(e) Application Fee.

(1) The fee for each application is two hundred fifty dollars (\$250.00) and is nonrefundable. Beginning in August of 2025 and every five (5) years thereafter, the fee for each application shall increase automatically by ten percent of the application fee for the preceding five (5) year period, rounded to the nearest five dollars (\$5.00).

(2) An application shall not be reviewed for completeness unless the application fee has been paid.

(3) If applications are consolidated, then the fee shall be the sum resulting from the fee set forth in division (1) of this section multiplied by the total number of facilities or wireless support structures included in the consolidated application.

(f) Attachment Fee.

(1) In addition to the application fee, an annual fee shall be paid to the City for each small cell facility attached to a municipally-owned wireless support structure. The annual fee is two hundred dollars (\$200.00). Beginning in August of 2025 and every five (5) years thereafter, the annual fee shall increase automatically by ten percent (10%) of the annual fee for the preceding five (5) year period, rounded to the nearest five dollars (\$5.00).

(2) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

(g) Required Application Materials. The applicant must submit the following documentation with each application.

(1) Completed application form together with the non-refundable application fee. The application form shall include the identity, legal status and Federal tax identification number of the applicant, as well as all affiliates and agents of the applicant that will use or be, in any way, responsible for the facilities.

(2) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.

(3) Fully dimensional scaled site plan (scale no smaller than one-inch equals forty feet). The site plan must include:

A. The exact proposed location of the facilities within the right-of-way;

B. All existing facilities with all existing transmission equipment;

C. The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the public way within 100 feet surrounding the proposed facilities;

D. The legal property boundaries within 100 feet surrounding the proposed facilities;

E. Indication of distance between the facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within 100 feet surrounding the proposed facilities; and

F. Access and utility easements within 100 feet surrounding the proposed facilities.

(4) Elevation drawings (scale no smaller than one (1) inch equals ten (10) feet of the proposed facilities.

(5) Evidence that the applicant provided notice by mail to all property owners within 200 feet of the proposed facilities prior to submitting the application. The notice shall include:

- A. Name of the applicant;
- B. Estimated date applicant intends to submit the application;
- C. Detailed description of the proposed facilities and the proposed location; and
- D. Accurate, to-scale photo simulation of the proposed facilities. Scale shall be no smaller than one-inch equals forty (40) feet.

(6) A preliminary installation/construction schedule and completion date.

(7) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the wireless support structure can accommodate the weight of the proposed small cell equipment.

(8) Analysis demonstrating that the proposed facilities do not interfere with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the applicant to evaluate, prior to making the application for a small cell use permit, the compatibility between the existing City infrastructure and applicant's proposed facilities.

(9) A landscape plan that demonstrates screening of proposed small cell equipment.

(10) Drawings of the proposed facilities. For all equipment depicted, the applicant must also include, if applicable:

- A. The manufacturer's name and model number;
- B. Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
- C. The noise level generated by the equipment, if any.

(11) If the applicant is not an operator, then the applicant must provide proof that the applicant has been engaged by a wireless service provider who will be the end-user of the facilities.

(12) If the facilities are to be located on a wireless support structure that is not owned or operated by the City, then the applicant shall provide written confirmation of permission to use the wireless support structure from the owner or operator of the wireless support structure.

(h) Application Review.

(1) Applications shall be evaluated in the following timeframes:

- A. Type 1 Applications: Sixty (60) days
- B. Type 2 Applications: Ninety (90) days
- C. Type 3 Applications: 120 days

(2) Applications shall be reviewed for completeness provided that the non-refundable application fee required under Section 1125.06 has been paid. If the application is incomplete, then the applicant will be notified of the insufficiency, and the timeframes set forth in division (1) of this section shall be tolled until the application is made complete.

(3) The timeframes set out in division (1) of this section may also be tolled as follows:

- A. If the City receives between fifteen and thirty applications in a thirty (30) day period, then the City may toll for an additional twenty-one days.
- B. If the City receives more than thirty applications in a thirty (30) day period, then the City may toll for an additional fifteen (15) days for every fifteen applications received.
- C. By mutual agreement between the applicant and the City.
- D. When an applicant submits an underground area waiver pursuant to the Design

Guidelines, in which case the City may toll for an additional fourteen (14) days.

(4) If two applicants request to collocate on the same wireless support structure or two wireless support structures are proposed within a distance that would violate the spacing requirements set forth in the design guidelines, then the Director of Public Service may resolve the conflict in any reasonable and nondiscriminatory manner.

(5) If a request for consent is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the applicant. Grounds for denying an application may include, but are not limited to:

- A. Failure to provide information required under Section 1125.02(g);
- B. Failure to comply with the Design Guidelines;
- C. Failure to provide financial surety pursuant to Section 1125.02(o);
- D. Failure to remove abandoned facilities as required under Section 1125.02(l);
- E. Conflict with the historic nature or character of the surrounding area;
- F. Conflict with planned future improvements in the right-of-way; and
- G. Failure to comply with generally applicable health, safety, and welfare requirements.

(6) Following completion of the installation, the applicant shall submit a complete set of as-built construction drawings of the facilities in a format acceptable to the City.

(i) Permitting Process, Duration, And Termination.

(1) Upon approval of its application, an applicant shall receive a small cell use permit indicating that the City has granted the applicant consent to occupy the right-of-way.

(2) A small cell use permit issued to an operator shall have duration of ten (10) years. Permits may be renewed for five (5) year terms.

(3) A small cell use permit issued to a facilities operator who is not an operator shall have a term of ten (10) years or the duration of the facilities operator's agreement with a wireless service provider provided pursuant to Section 1125.02(g)(11), whichever is shorter.

(4) A small cell use permit shall not be renewed if the facilities operator or the facilities are not in compliance with all applicable laws and regulations.

(5) Pursuant to Ohio R.C. 4939.0314(E), a small cell use permit shall be deemed terminated if the facilities operator has not completed construction of the facilities or has failed to attach small cell equipment to a wireless support structure within 180 days of issuance of the permit, unless the delay is caused by:

- A. Make-ready work for a municipally-owned wireless support structure; or
- B. Due to the lack of commercial power or backhaul availability at the site, provided that the operator has made a request for commercial power or backhaul services within sixty days after the small cell use permit was granted. If the additional time to complete the installation exceeds 360 days after the issuance of the permit, then the permit shall be deemed terminated regardless of the cause of the delay.

(6) A small cell use permit for a new wireless support structure shall be deemed terminated if the facilities operator fails to attach small cell equipment to the new wireless support structure within 180 days of issuance of the small cell use permit.

(7) If the facilities operator fails to remit the annual attachment fee required pursuant to Section 1125.02(f), then the small cell use permit will expire on the ninetieth day from the date the annual attachment fee was due.

(8) A small cell use permit may be terminated by the facilities operator at any time upon service of sixty (60) days written notice to the City.

(9) Upon termination of a small cell use permit, the facilities operator shall restore and rehabilitate all City-owned wireless support structures and the right-of-way to their former condition and utility.

(10) The City shall not issue any refunds for any amounts paid by the facilities operator upon termination of the permit.

(j) Annual Registration.

(1) All facilities operators with consent to occupy or use the right-of-way shall register with the City each calendar year between January 1 and January 31 on a form provided by the City. The form will allow the facilities operator to indicate when there is no change in the information required, and when such indication is submitted, previously provided information will be considered current and will be relied upon. Facilities operators who obtain consent to occupy the right-of-way after September 30 of any year need not file an annual registration for next calendar year.

(2) The purpose of registration under this section is to:

A. Compile, update and supplement the City's database so that the City has accurate and current information concerning the facilities operators that own or operate facilities in the City's right-of-way;

B. Assist the City in monitoring the usage of the right-of-way in order to ensure that the public receives the maximum possible benefit from that use, and the use is consistent with the best management and care of the right-of-way;

C. Assist the City in the collection and enforcement of any municipal taxes, fees, or other charges that may be due the City; and

D. Assist the City in monitoring compliance with local, State and Federal laws.

(3) Registration forms will be provided by the City and shall require the following information:

A. Any material changes to the information the facilities operator provided to the City in the application for small cell use permit, including, but not limited to:

i. The identity of the facilities operator, including any affiliates or agents.

ii. The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the facilities operator's registration statement and available at all reasonable times to be notified in case of emergency.

iii. Evidence that the facilities operator is in compliance with the insurance, indemnity and financial surety requirements pursuant to this chapter.

B. Such other information as the Director of Public Service may reasonably require.

C. In addition to the annual registration requirement, each facilities operator shall keep all required registration information current at all times and shall provide the City with notice of changes to the required information within fifteen days following the date on which the Facilities Operator has notice of the need for such change.

(k) Nonconforming Facilities.

(1) Facilities in the right-of-way that are legally in existence on the date of the adoption of this chapter but that do not comply with the requirements of this chapter may remain in the right-of-way but shall be considered a nonconforming facility.

(2) Any person or entity who owns or operates a nonconforming facility shall register such facility pursuant to Section 1125.02(j) within 90 days of the date this chapter take effect.

(3) If a nonconforming facility is damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this chapter, the Design Guidelines, and State and Federal law and regulations.

(l) Abandoned And Damaged Facilities.

(1) A facilities operator shall provide written notice to the City of its intent to discontinue use of any facilities. The notice shall include the date the use will be discontinued. If facilities are not removed within 365 days from the date the use was discontinued, the facilities shall be considered a nuisance and the City may remove the facilities at the expense of the facilities operator.

(2) In the event that facilities are damaged, the facilities operator shall promptly repair the damaged facilities. Damaged facilities shall be repaired no later than thirty (30) days after receiving written notice that the facilities were damaged. If the damaged facilities are not repaired within thirty (30) days, then the damaged facilities shall be considered a nuisance and the City may repair or remove the facilities at the expense of the facilities operator.

(m) Insurance Requirements.

(1) As a condition of the City's consent to occupy the right-of-way, a facilities operator must secure and maintain the following liability insurance policies insuring both the facilities operator and the City, and its elected and appointed officers, officials, agents and employees as additional insureds:

A. Comprehensive general liability insurance, on an occurrence basis, with limits not less than:

- i. Five million dollars (\$5,000,000) for bodily injury or death to each person;
- ii. Five million dollars (\$5,000,000) for property damage resulting from any one accident;

and

- iii. Five million dollars (\$5,000,000) for all other types of liability.

B. Automobile liability for owned, non-owned and hired vehicles with a limit of three million dollars (\$3,000,000) for each person and three million dollars for each accident.

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).

D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).

(2) Each such insurance policy shall contain the following endorsement: "It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ninety (90) days after receipt by the City, by registered mail, of a written notice addressed to the Director of Public Service of such intent to cancel or not to renew."

(3) Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the facilities operator shall obtain and furnish to the City replacement insurance policies meeting the requirements of this subsection.

(4) Upon written application to the Director of Public Service, and written approval by the Director of Public Service, the Mayor and the Finance Director, a facilities operator may be self-insured to provide all of the same coverages as listed in this section; except that all coverages for Worker's Compensation shall be in compliance with State law. No approval for self-insurance shall be given until the Director of Public Service, the Mayor and the Finance Director have made a complete review of the facilities operator's financial ability to provide such self-insurance. As part of the review process, the Finance Director may require, and the facilities operator shall provide any and all financial documents necessary to enable the Director of Public Service, the Mayor and the Finance Director to make a valid determination of the facilities operator's ability to provide the level of protection against risk otherwise required under this section.

(n) Indemnification. A facilities operator shall indemnify, protect, defend, and hold the City and its elected and appointed officials, officers, employees, agents, and volunteers harmless against

any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the operator who owns or operates small cell facilities and wireless service in the right-of-way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in the right-of-way.

(o) Financial Surety.

(1) Each facilities operator must procure, maintain and provide to the City a bond, escrow, deposit, letter of credit, or other financial surety in an amount sufficient to cover the cost of removal of all facilities owned or operated by the facilities operator.

(2) The City may, in its sole discretion, draw on the financial surety to remove abandoned facilities, remove abandoned, unused, or unsafe facilities, or to repair damaged facilities, or to repair damage to any City property caused by the facilities operator or its agent. In such event, the facilities operator shall cause the financial surety be replenished to its prior amount within ten business days after City notifies the facilities operator that it has drawn on the financial surety.

(p) Reserved Space. The City reserves the right to install, and permit others to install, facilities in the right-of-way. The City may reserve space in the right-of-way and on wireless support structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the Mayor, Director of Public Service, City Council or Planning Commission.

(q) Removal Or Relocation Of Facilities.

(1) Consistent with Ohio R.C. 4939.08, the City may require a facilities operator to remove or relocate facilities to accomplish construction and maintenance activities or to accommodate an expansion of the right-of-way. The facilities operator shall remove or relocate the facilities at no cost to the City. If the facilities operator fails to remove or relocate the facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the facilities at facilities operator's sole cost and expense, without further notice to the facilities operator.

(2) If the facilities are placed in a location other than the location approved by the City, the facilities operator shall relocate the facilities within thirty (30) days of receiving notice that the facilities are located improperly.

(r) Notice Of Work. A facilities operator shall notify the Director of Public Service of all non-emergency work within ten calendar days prior to performing any upgrades or maintenance on any facilities, regardless of whether the work requires any permit or consent from the City. Notice of emergency work shall be provided to the Director of Public Service as soon as is practicable after discovery of the condition or event requiring the emergency work.

(s) Excavation Permit. If a facilities operator must construct, reconstruct, alter, repair, remove or replace any culvert, sidewalk or driveway in any right-of-way, then the facilities operator shall obtain all permits required by the City's ordinances.

(t) Promulgation Of Design Guidelines. The Mayor, Director of Public Service may, from time to time, promulgate Design Guidelines that are not inconsistent with this chapter or State or Federal law.

(Ord. 26-22. Passed 4-26-22.)

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- Ordinances of Sheffield Lake, OH
- ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- ORDINANCE NO. 116-84
- ORDINANCES OF SHEFFIELD LAKE
- effective part of the City's emergency response network; and
- ording to the Official Zoning Map as a conditional use
- amended
- order to accommodate the communications needs of residents and businesses while protecting the health, safety and general welfare, the City recommends and encourages the placement of
- order of preference:
- order to locate wireless telecommunications towers and related facilities in residential zoning districts, the applicant-service provider shall demonstrate to the Planning Commission
- effective, and that in order to provide wireless telecommunications services to the residents and businesses in such a manner which serves their best interests, such towers and facilities m
- ordinate and in deference to the use of private, residentially zoned or used property, by minimizing the visual effect on adjoining and vicinity residential properties, and to minimiz
- order, on a case-by-case basis, by the wireless telecommunications service provider making the request
- amended, the provider shall submit written verification of such fact
- ording to the following requirements:

- ordinary tone of its construction materials, such as the grayish color of galvanized steel
- ordinance. (3) Historic Districts
- order to provide wireless telecommunications service, such towers or facilities may not be located elsewhere within the City
- amended, or other applicable law
- ordered an opportunity to provide rebuttal to the expert's review and re-review prior to the formal departmental review and submission to Planning Commission in accordance with the Plan
- adopted or promulgated by the City, the County, the State or the United States of America
- effective wireless telecommunications services for the public and regulating their location to promote the general welfare
- effective radiated power of the antennas to be used
- effectively and efficiently execute this chapter
- ordinances
- Ord. 26-22
- ordinance with the requirements of this chapter, the Design Guidelines, R
- ordination regarding proposed facilities, locations, design, application submittal, and the approval process in order to avoid any potential delays in the processing of an application
- order to ensure that the public receives the maximum possible benefit from that use, and the use is consistent with the best management and care of the right-of-way;
- ordinance with all provisions of this chapter, the Design Guidelines, and State and Federal law and regulations
- ordinance or plan approved by the Mayor, Director of Public Service, City Council or Planning Commission
- Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality
- Ordinances should be consulted prior to any action being taken
- Ordinances or other documents posted on this site, please contact the Municipality directly or contact American Legal Publishing toll-free at 800-445-5588

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1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

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Skip to main content	
Search	
Sitemap	
Login	
Select Language	
Resources	
Skip to code content (skip section selection)	
2025-04 (current)	
Sheffield Lake Overview	
Codified Ordinances of Sheffield Lake, OH	
CODIFIED ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO	
CERTIFICATION	
ROSTER OF OFFICIALS	
ADOPTING ORDINANCE NO. 116-84	
COMPARATIVE SECTION TABLE	
TABLES OF SPECIAL ORDINANCES OF SHEFFIELD LAKE	
CHARTER	
PART ONE - ADMINISTRATIVE CODE	
PART THREE - TRAFFIC CODE	
PART FIVE - GENERAL OFFENSES CODE	
PART SEVEN - BUSINESS REGULATION CODE	
PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE	
PART ELEVEN - PLANNING AND ZONING CODE	
CHAPTER 1101 General Provisions	
CHAPTER 1103 Administration and Decision-Making Bodies	
CHAPTER 1105 Review Procedures	
CHAPTER 1107 Zoning Districts and Principal Use Regulations	
CHAPTER 1109 Planned Residential Developments (PRD)	
CHAPTER 1111 Accessory and Temporary Use Regulations	
CHAPTER 1113 General Development Standards	
CHAPTER 1115 Landscaping and Screening Standards	
CHAPTER 1117 Parking and Access Standards	
CHAPTER 1119 Signs	
CHAPTER 1121 Subdivision Design Standards	
CHAPTER 1123 Wind Energy Systems	
CHAPTER 1125 Wireless Telecommunications	
1125.01 WIRELESS TELECOMMUNICATION FACILITIES.	
1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.	
CHAPTER 1127 Nonconformities	
CHAPTER 1129 Enforcement and Penalties	
CHAPTER 1131 Definitions	

PART THIRTEEN - BUILDING CODE

PART FIFTEEN - FIRE PREVENTION CODE

OH

Sheffield Lake

Codified Ordinances of Sheffield Lake, OH

1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

CHAPTER 1125 Wireless Telecommunications

1125.01 WIRELESS TELECOMMUNICATION FACILITIES.

(a) Purpose.

(1) The purpose of this section is to provide for the common good and preserve the enjoyment of private property through the regulation of the construction, placement and modification of wireless telecommunications systems, including telecommunications towers and associated facilities, while ensuring the ability of the consumer to use and enjoy telecommunications services of all types, and to protect the right of private and public enterprise to exercise free trade.

(2) To the extent permitted by law, the City shall apply the regulations set forth in this section to specifically accomplish the following:

A. Accommodate the need for wireless telecommunications towers and facilities to meet the public's demand for the use and convenience of wireless personal cellular telecommunications service and wireless internet access, while regulating their location and number in the City;

B. To encourage the location of towers and facilities on nonresidential land;

C. To minimize the total number of towers and facilities;

D. To ensure that towers and antennas are configured in such a way as to minimize adverse visual impact by design, careful siting, landscape screening, camouflaging and innovative techniques brought about through the advance of science and technology;

E. To avoid damage to adjacent properties from tower failure through competent engineering, construction and erection of towers;

F. To ensure that a competitive and broad range of wireless personal communications services and high-quality telecommunications infrastructures are provided to serve the residents, businesses, public sector and visitors to the City;

G. To create and preserve a wireless telecommunications facilities system which will serve as an effective part of the City's emergency response network; and

H. To accommodate the public's demand for present day wireless personal communications services through these standards, so that changing technologies will continue to serve these needs, while concurrently preserving the City's aesthetic and ecological integrity, so that residents of the future may continue to enjoy the comfortable living standards of the Sheffield Lake community.

(b) Location Criteria.

(1) Wireless telecommunications facilities, towers and related structures may be located in any zoning district and located according to the Official Zoning Map as a conditional use. Generally, wireless telecommunications towers are objectionable in residential areas because their use is industrial in nature, and may be objectionable in the community at large because they are frequently considerably taller than surrounding structures, causing them to be seen from long distances. Their location is therefore regulated as permitted by the Telecommunications Act of 1996, as may from time to time be amended.

(2) In order to accommodate the communications needs of residents and businesses while protecting the health, safety and general welfare, the City recommends and encourages the placement of wireless telecommunications facilities and towers in nonresidential areas, in the following order of preference:

- A. City-owned property;
- B. Industrial areas;
- C. Other nonresidential districts deemed appropriate by review of the Planning Commission and approval of Council.

(3) When a wireless telecommunications facility is located in conformity with this chapter, and the antenna is collocated as herein defined, and is attached to an institutional, recreational, public utility, office, industrial or commercial structure or building, equipment and apparatus supporting such facility shall be stored on the premises inside the wireless telecommunications equipment building or other structure on the premises of the facility.

(c) Towers. In addition to the definitions set forth this code, "towers" shall be regulated by this section.

(1) Towers Located in Nonresidential Zoning Districts.

A. A wireless telecommunications tower and related facilities are permitted as the sole use on a zoning lot, and may be permitted, by approval of the Planning Commission, on zoning lots containing other uses where existing structures enable collocation, including on City owned property.

B. The minimum lot size on which a wireless telecommunications tower and related facilities are placed shall be the minimum lot size required for the underlying zoning district.

C. For purposes of this chapter only, any other provision of this Code notwithstanding, the setback for a tower of any variety, including a monopole, shall be measured from the base of the tower or monopole at the point where it is placed in the ground to the property line, or to the nearest residential dwelling located within the property and part of a multi-use non-residentially zoned parcel. The exception to this regulation is where a tower, monopole, antenna, whether camouflaged or not, or any apparatus defined herein as a tower, is affixed to any existing building, and the use of it as a tower for wireless telecommunications and wireless internet access is conditionally approved by the Planning Commission.

i. An equipment building, and all other structures except the tower, shall be set back the minimum distance required in the underlying zoning district.

ii. In Industrial zoning districts, the setback for the tower shall be at least twenty-five percent (25%) of the total height of the tower. A minimum of fifty (50) feet shall be required.

iii. In nonindustrial zoning districts, excluding the conditions listed in paragraphs 1125.01(c)(1)C.iv and 1125.01(c)(1)C.v hereof, the tower shall be set back fifty percent (50%) of the total height of the tower. A minimum of fifty (50) feet shall be required.

iv. In nonindustrial zoning districts or in the Industrial zoning districts where the lot on which a tower is located abuts another lot on which is located, a school of any type, including institutions of higher learning beyond high school level, public or private parks (but not including golf courses), hospitals, playgrounds, day-care centers, health centers or other human services and educational uses, as determined by the Planning Commission to apply to this subsection, the tower shall be set back a distance equal to the total height of the tower.

v. In nonindustrial zoning districts and in Industrial zoning districts where a lot on which a tower is located abuts any lot within a residential zoning district of any classification, the tower shall be set back seventy-five percent (75%) of the total height of the tower. A minimum of

seventy-five (75) feet shall be required.

vi. Guyed wires may be anchored within the required setback area only if the tower itself is placed in conformity with this chapter regarding its setbacks, but guy wires and other similar supporting devices shall not be anchored any less than ten (10) feet from any adjoining parcel or zoning lot, regardless of its underlying zoning district.

(2) Towers in Residential Zoning Districts.

A. In order to locate wireless telecommunications towers and related facilities in residential zoning districts, the applicant-service provider shall demonstrate to the Planning Commission that there is sound geographic reason for doing so, that offers to collocate with other providers within the City or neighboring communities have proven ineffective, and that in order to provide wireless telecommunications services to the residents and businesses in such a manner which serves their best interests, such towers and facilities may only be placed in a residential zoning district.

B. The setbacks for towers and related facilities in residential zoning districts shall be the same as in nonresidential zoning districts, pursuant to paragraph 1125.01(c)(1)C hereof.

C. Towers supporting amateur radio antennas and conforming to all applicable provisions of this chapter shall be permitted in residential zoning districts, but not as the sole use of a lot, and only in the rear yard of such parcels, as defined in this Code.

D. The City, and any other governmental entity, may locate wireless telecommunications towers and related facilities in residential zoning districts, but only on publicly owned property, even as the sole use of the lot.

i. The City may locate wireless telecommunications towers and related facilities in residential zoning districts to provide wireless telecommunications.

ii. The City may contract with private wireless telecommunications service providers to locate a tower and related facilities on City-owned property in residential zoning districts, provided that all provisions of this chapter are followed.

E. In residential zoning districts, collocation shall be especially encouraged.

F. In residential zoning districts, all towers shall be camouflaged using the best and most advanced techniques possible, pursuant to Section 1125.01(g) unless waived by the Planning Commission for cause.

G. If wireless telecommunications towers and related facilities are located in residential zoning districts, sufficient landscaping, buffering and/or screening shall be required, and shall be considered paramount to the establishment of such structures in all residential zoning districts. (See also Section 1125.01(d).)

H. Wireless telecommunications towers and related facilities are permitted on land which has been established as permanent open space or a park, subject to the following conditions:

i. The open space shall be owned and overseen by the City, the County, the State, the United States of America, other governmental or quasi-governmental agencies, a private homeowners association or a private, non-profit conservation organization.

ii. If in a residential zoning district, the tower shall not exceed 200 feet in height, including antennas.

iii. The wireless telecommunications equipment building shall not exceed twenty (20) feet in height.

iv. The maximum size of the wireless telecommunications equipment building shall be 300 square feet, or, if more than one is located on a given zoning lot, 700 square feet in the aggregate.

v. Notwithstanding any other setback provisions of this chapter, the tower shall be set back a minimum of 200 feet from any single-family residential zoning district.

I. Towers and related wireless telecommunications facilities shall be placed, constructed and modified subordinate and in deference to the use of private, residentially zoned or used property, by minimizing the visual effect on adjoining and vicinity residential properties, and to minimize the visual, often unattractive, impact that towers and related wireless telecommunications facilities create when viewing them from a distance.

(3) Design Requirements for Towers and Facilities.

A. Any wireless telecommunications tower shall be designed, structurally and electrically, to accommodate both the applicant's antenna and at least comparable antennas for at least two additional service providers if the tower is at least 100 feet in total height, or for one additional service provider if the tower is at least sixty (60) feet in total height. Towers shall be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at various heights.

B. Towers and antennas, as well as all wireless telecommunications facilities, shall be designed and situated upon a lot so as to minimize their visibility and to the greatest extent possible to blend into the surrounding environment.

C. Towers shall be designed, constructed, erected and maintained with the utmost care for the safety of persons and property. Certification attesting to the structural integrity of towers shall comply with the provisions of Section 1125.01(e).

(4) Tower Height.

A. The maximum height of a tower shall be 200 feet unless a technically logical reason for locating a higher tower is demonstrated to the satisfaction of the Planning Commission and Council to be in order, on a case-by-case basis, by the wireless telecommunications service provider making the request. When a higher tower is required by provision of law consistent with the Telecommunications Act of 1996, as may from time to time be amended, the provider shall submit written verification of such fact. Towers less than 200 feet in height are especially encouraged.

B. The physical ability to collocate antennas on any tower shall be required on all towers higher than sixty (60) feet in height, unless it can be demonstrated that, because of the type of tower involved for a given proposal and/or for other technically logical reasons, the physical ability to collocate on such a tower above sixty feet in height is not feasible or desired. A tower 100 feet or higher shall be designed to have sufficient structural capacity to accommodate at least three additional providers.

(5) A tower and its related wireless telecommunications equipment building and other structures, landscaping and other features, if any, shall be located on a single zoning lot. The provider shall locate a tower and related wireless telecommunications facilities only on a zoning lot of sufficient dimensions and conditions to accommodate the overall facility, tower, etc., so that all minimum setbacks and any other zoning requirements of the underlying zoning district are met.

(6) Underground wireless telecommunications equipment buildings are especially encouraged, especially on zoning lots in or abutting residential zoning districts where a tower is placed.

(d) Additional Regulations. The provisions of this section pertain to towers and all other wireless telecommunications facilities and structures, and shall be in addition to the regulations set forth in Section 1125.01(c).

(1) All towers and related wireless telecommunications facilities shall be located in a landscaped setting. A landscaped buffer area of not less than ten (10) feet in depth shall be placed between the wireless telecommunications facility and the public right-of-way, residential zoning district and any adjacent residential use, regardless of the underlying zoning district thereof. Such buffer area shall, at a minimum, consist of dense foliage and vegetation, of at least partially

evergreen species, not less than the height of any equipment proposed for the site but not less than eight feet in height. Landscaping shall be continuously maintained and promptly reconditioned, if necessary. Other landscaping may be required by the Planning Commission. The arrangement of landscaping and the overall design thereof within a zoning lot on which a wireless telecommunications tower and related facility is placed may be considered by the Planning Commission.

(2) Screened fencing shall be provided for appearance, public safety and personal security, according to the following requirements:

A. Height.

- i. The minimum height of any fencing shall be three (3) feet.
- ii. The maximum height in any residential zoning district shall be six (6) feet.
- iii. The maximum height in any nonresidential zoning district shall be eight (8) feet.

B. In any zoning district, the screened fencing shall consist of a chain link fence, as defined in this code for the underlying zoning district. Fencing in an industrial zoning district may be capped with barbed wire to a maximum of twelve (12) inches. The barbed wire portion, if any, shall be included in the measurement of the total height of such fencing.

C. Fencing may be unpainted or painted to blend into the surrounding area.

D. Access to the tower and related wireless telecommunications facility shall only be through a locked gate, properly maintained and secured twenty-four hours per day. The City shall not be responsible for any damage to the tower or other auxiliary structures, and shall be held harmless from any liability of any kind relating to damage, destruction, misfeasance of the tower or auxiliary structures, and from any personal injury to any party whomever.

(3) Except as required by law or safety factors as determined by the City, an antenna or tower shall not be illuminated and lighting fixtures or signs, other than those sanctioned by this chapter, shall not be attached to an antenna or tower. Security lighting shall be permitted for the wireless telecommunications equipment building and other auxiliary structures, if any. Any permitted lighting shall be situated and directed so as not to emit light directly or indirectly onto any adjoining residential property, and in any zoning district, such lighting shall be designed, placed, and directed to minimize its emission and glare onto any adjoining property.

(4) A tower or related wireless telecommunications facility shall contain no symbols whatever. The fencing surrounding the wireless telecommunications equipment building shall contain the appropriate number of signs to warn the public of danger and also at least two signs stating "NO TRESPASSING", and a sign identifying the wireless telecommunications service provider, of a type, size, color and allotment as approved by the Planning Commission.

(e) Certification of a Registered Structural Engineer. Prior to approval of a site plan to construct and locate a wireless telecommunications tower and related facility, an independent certified structural engineer shall be engaged by the City, whose services shall be paid for in total by the applicant. The City may pay for such services in advance for the purpose of timeliness and invoice the applicant for charges. The applicant shall reimburse the City in full within thirty (30) days of receipt of such invoice. The applicant may also be responsible for obtaining independent opinions of other technical experts for the purpose of verifying the safety and structural integrity of towers and other wireless telecommunications facilities, including, but not limited to, representatives of the FCC, the FAA and a person qualified to certify the safety of and comment upon radio frequency emission, in a manner as determined acceptable to the City, as directed by the Planning Commission.

(f) Registration of Wireless Telecommunications Providers. All wireless telecommunications

services providers, including governmental, public and quasi-public providers, who operate or propose to operate within the corporate limits of the City, shall register with the Zoning Inspector on forms and in a manner as prescribed by the Zoning Inspector. At a minimum, the following information shall be required:

(1) The identity and legal status of the provider, including business affiliations.

(2) The name, address, telephone number, fax number and electronic mail address (if available), of the officer, agent or employee responsible for the accuracy of the registration statement. It shall be the responsibility of the provider to keep this information up to date.

(3) A narrative and map description of all the provider's existing or proposed wireless telecommunications towers and related facilities in the City and elsewhere.

(4) A description of the wireless telecommunications and related facilities in the City and elsewhere.

(5) Written information sufficient into the opinion of the Planning Commission to verify that the provider has applied for and received certification and approval as a licensed wireless telecommunications provider by the FCC to operate in the State.

(6) Any other information reasonably related to the application and the probable, substantive effects of locating a wireless telecommunications tower and related facility in the City, as may be required by the Planning Commission.

(g) Design Criteria.

(1) Camouflaging of Towers.

A. Towers shall be located in a landscaped setting pursuant to Section 1125.01(d)(1). The Planning Commission may require additional landscaping. Camouflaging of towers is especially encouraged only if logical and technically feasible. Such camouflaging may take the form of erecting a tower which resembles or mimics another object, such as a tree or flag pole. Camouflaging may also consist of placing antennas on existing structures such as water towers or buildings in such a way that they are not easily detected and cannot be seen by the naked eye from a long distance.

B. If antennas are collocated on existing structures which are not towers as defined by this chapter, it shall be presumed that such antennas are camouflaged unless their positioning and placement causes them to be easily seen and discerned by a reasonable person as being wireless telecommunications antennas.

C. Antennas may be placed on trees, if technically feasible, and is such placement would provide wireless telecommunications services to the residents and businesses of the City equal to that if such antennas were placed on towers. If antennas are placed on trees, they shall be camouflaged.

D. A building or other structure may be a prop only, which is unused and unusable as anything but a device to camouflage an antenna. It shall be aesthetically pleasing and maintained continuously.

E. Camouflaging, whatever variety and however employed, shall be of a type compatible with the immediate surrounding area and the City at large in color, design, material, appearance and its method of mimicry. For example, an artificial oak tree 100 feet in height would satisfy this requirement. An artificial palm tree would not.

F. Antennas may be placed on facades of buildings if colored and designed to match the color, texture and style of the building to which it is attached, and shall be attached at least twenty-five (25) feet above grade.

(2) Color of Towers. All towers of any type shall be of a color which blends into the natural

color of the immediate area or skyline, but shall not be painted at all if, by coloring the tower, it would be more visible to the naked eye from a long distance than if it were erected in the ordinary tone of its construction materials, such as the grayish color of galvanized steel. If towers are painted, they shall be maintained within the requirements of the City's property maintenance ordinance.

(3) Historic Districts. In any district which shall become so demarcated as a historically and/or architecturally significant district, or as a special district recognized and set apart as significant to the community's heritage or traditions, wireless telecommunications towers and related facilities shall not be located, unless it is proven that in order to provide wireless telecommunications service, such towers or facilities may not be located elsewhere within the City. Any tower and related wireless communications facility, including the equipment building, shall be camouflaged in such districts as herein described. Prior to approval, the provider shall demonstrate by clear and convincing evidence that if towers and related wireless telecommunications facilities are located in districts as herein described, they shall not adversely affect the natural or man-made environment or the architectural setting, and that their location shall not pose any reasonable risk to the health and safety of residents within 300 feet of the boundaries of a district as herein described.

(4) Towers of Excessive Height. Wireless telecommunications towers higher than 200 feet or located within 2,500 feet of any airport runway, public or private, shall be registered with the FAA. The provider/operator of such tower shall submit written verification of such registration with the FAA. Lighting shall be required for that part of towers in excess of 200 feet or as otherwise required by the FAA. When such lighting is required by the FAA or other governmental authority, and the zoning lot on which a tower is located abuts any residential zoning district, it shall be oriented inward of the zoning lot and shall not project or be cast onto all abutting zoning lots within residential zoning districts.

(5) National Environmental Protection Act. The location, construction and operation of towers and related wireless telecommunications facilities shall comply with all applicable requirements and laws of the National Environmental Protection Act, Chapter 19, as may from time to time be amended.

(6) Advertising and Identification.

A. Identification of towers and related wireless telecommunications facilities shall be permitted if required by the FCC, the FAA, the Federal or State EPA, OSHA or other governmental agency for regulation or identification purposes as necessary pursuant to the Telecommunications Act of 1996, as may from time to time be amended, or other applicable law. The City shall be permitted to require identification signs.

B. No advertising whatever shall be permitted on towers or related wireless telecommunications facilities, unless required as indicated in paragraph A hereof or by other action of law. The only signs permitted shall be those signs indicating danger and no trespassing signs, or other signs important to the identification of the tower or facility as determined by the Zoning Inspector and/or the Planning Commission. All such signs shall be permanently attached to the tower or other wireless telecommunications structure and shall be placed at least four (4) feet above grade. The only colors permitted shall be black, white, red, yellow, orange or any combination of these colors. Signs shall not be illuminated in any manner. Luminous paint may be used on signs if approved by the Zoning Inspector and/or the Planning Commission.

(h) Streets and Parking.

(1) All zoning lots on which are located towers and related wireless telecommunications

facilities shall abut a public right-of-way.

(2) The type and construction of such roads shall be regulated as otherwise set forth in this code.

(3) If available, existing parking shall be used and not expanded. Each zoning lot on which is located a tower and related wireless telecommunications facility shall have sufficient parking to accommodate service of the site. A minimum of one (1) parking space and a maximum of three (3) parking spaces shall be provided. Parking shall appear on the site plan for the wireless telecommunications facility as regulated by this code.

(4) If the wireless telecommunications facility is fully automated, a maximum of two (2) parking spaces shall be required for maintenance workers. If the site is not fully automated, a maximum of three parking spaces shall be permitted. Parking specifications shall be as regulated in this code.

(i) Accessory Buildings. All accessory or utility buildings and structures that are not a tower or related wireless telecommunications facility as defined in this chapter shall be architecturally designed to blend in with the surrounding area and shall meet the minimum setback requirements of the underlying zoning district. Landscaping and other regulations of this chapter shall also apply. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the surrounding neighborhood.

(j) Demonstration of Necessity.

(1) To assure that the City's and the public's objectives are achieved, the wireless telecommunications service provider requesting permission to locate a tower and related wireless telecommunications facility shall produce written evidence of contact with all wireless telecommunications service providers who supply service within the distribution sphere of the proposed facility. The applicant-provider shall inquire about potential collocation opportunities at all technically feasible locations in, or which could service, the City.

(2) To adequately demonstrate the need at a particular location the applicant-provider shall provide following information as part of the demonstration of necessity:

- A. Coverage areas of existing sites within 2.5 miles;
- B. Propagation maps from proposed site at increments of twenty-five (25) feet starting at fifty (50) feet in height up to proposed height;
- C. List of existing structures within 2.0 miles of proposed site that are at least forty (40) feet in height along with anticipated signal strengths from those structures;
- D. In-building and in-vehicle coverage areas in relation to paragraph (b)(2) above;
- E. Description of anticipated coverage areas and coverage signal strengths in dBm;
- F. Written proof of contact with existing wireless telecommunication sites within one mile of proposed site. Contact shall request availability of collocation at existing site. The application shall include written responses from the contacted sites. Propagation maps from existing sites within the one-mile radius shall be included to show the differences in coverage areas;
- G. Frequency, modulation and class of service of radio or other transmitting equipment;
- H. The number, type and design of the proposed tower and antennas and any calculations used to determine the proposed number of collocations available at the proposed site;
- I. List of other service providers contacted in good faith that may be willing to locate at the proposed site;
- J. Certification that the NEIR levels at the proposed site are within the permitted threshold levels as established by the FCC;
- K. Name, address, phone number and accreditation of person submitting maps and report;

L. Fall zone map identifying all existing structures within the fall zone (a.k.a. total height) of the proposed tower; and

M. Line of site drawings which will provide approximate views from adjacent properties.

(3) The City shall contract with a competent expert to assist in evaluating the need for a new tower, antenna and related wireless telecommunications facilities at a particular location. This evaluation shall be completed prior to the application being considered by Planning Commission. The applicant shall be afforded an opportunity to provide rebuttal to the expert's review and re-review prior to the formal departmental review and submission to Planning Commission in accordance with the Planning Commission Rules and Regulations. This study shall not be required for collocations or antenna systems being proposed for attachments to existing buildings and structures unless the tower is proposed to extend beyond twenty-five (25) feet in height over the attachment point.

(4) An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of a competent expert for the evaluation and consultation to the City in connection with the review of any application. The initial deposit shall be eight thousand dollars (\$8,000). The placement of the eight thousand dollars (\$8,000) with the City shall precede the application to Planning Commission. The City will maintain a separate escrow account for all such funds. The City's expert shall invoice the City for its services in reviewing the application. If at any time during the process this escrow account has a balance less than three thousand dollars (\$3,000), the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least five thousand dollars (\$5,000). Such funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The total amount of the funds needed as set forth hereof may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. The maximum fee associated with the consultant review shall be seventeen thousand dollars (\$17,000).

(k) Expansion Of A Nonconforming Use. A wireless telecommunications tower or related facility, whether a collocation, a new tower or on an existing structure, shall not be considered an expansion of a nonconforming use pursuant to Section 1127.05: Nonconforming Uses.

(l) Inventory And Trading. The Zoning Inspector shall compile a list of all tower and related wireless telecommunications facilities, logging by use of a map and file, and may update such map and file from time to time, based on relevant information furnished by wireless telecommunications providers or others.

(m) Non-Ionizing Electromagnetic Radiation (Nier) Exposure. No wireless tower or related wireless telecommunications facility shall be located in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to the public health, including, but limited to, human or animal exposure to non-ionizing electromagnetic radiation. A wireless telecommunications facility shall not produce at any time power densities which exceed the American National Standards Institute (ANSI) C95.1-1992 standard for human exposure, or any more reasonably restrictive standard subsequently adopted or promulgated by the City, the County, the State or the United States of America.

(n) Abandonment. Any antenna, tower or related wireless telecommunications facility which is not operated for its intended purpose for a period of 180 days shall be considered abandoned, and the tower and antenna shall be removed at the expense of the wireless telecommunications

provider within ninety (90) days of the issuance date of notice to remove such tower and antenna.

(o) Supplemental Provisions.

(1) The City may require that any new tower be constructed to facilitate future collocation whenever technically feasible, as regulated by this chapter.

(2) The City may lease or rent space on towers to other public or private wireless telecommunications providers for the purpose of placing antennas to provide separate wireless telecommunications services. Fees obtained through collocation when the City is the owner of a tower or related wireless telecommunications facility, even amounts in excess of cost, shall be permissible, if reasonably related to the maintenance of wireless telecommunications towers and facilities and the mitigation of any adverse impacts thereof.

(3) The City may prepare and use public land for wireless telecommunications towers and related facilities for the purpose of providing for modern, effective wireless telecommunications services for the public and regulating their location to promote the general welfare.

(4) The City and all competing wireless telecommunications service providers shall show good faith in their dealings with one another and diligently negotiate with each other in all matters concerning locating and sharing wireless telecommunications towers and related facilities.

(p) Approval Procedure.

(1) Applications for approval to locate towers, antennas and related wireless telecommunications facilities shall be controlled as set forth for conditional uses in Section 1105.03: Conditional Uses, and the applicant-provider shall apply for a site plan review as set forth in Section 1105.06: Site Plan Review. This requirement shall not apply to the collocation of antennas and wireless telecommunications equipment upon approved conditional use wireless telecommunications facilities in good standing as set forth in Subsection 1125.01(p)(3).

(2) Prior to the submission of an application for a new conditional use permit the applicant shall schedule a preliminary review meeting with the Zoning Inspector to review the required documents. At the preliminary review meeting a checklist shall be reviewed to verify the information being submitted and to identify missing information. The City shall reserve the right to have representation from the outside review consultant at the preliminary review meeting.

(3) In addition to the requirements set forth in Subsection 1125.01(p)(1), the following shall be submitted in an application for approval:

A. A written document certifying that the applicant is a wireless telecommunications service provider licensed by the FCC. No tower owner shall be permitted to submit an application for a new conditional use permit for a new tower without providing written proof that commits a commercial wireless telecommunications provider to the proposed site.

B. An affidavit swearing that the applicant shall comply with all regulations of the Telecommunications Act of 1996, as may from time to time be amended.

C. A written document which certifies that the applicant shall locate no tower in violation of laws governed by the FAA. Credentials of the affiant shall be included as part of this requirement.

D. A signed and stamped report from a certified, structural engineer which:

i. Describes the tower height and design, including a cross section and elevation;

ii. Documents the total tower height and its potential for mounting positions for at least three (3) additional collocated antennas, their minimum separation distances, and general ability for accommodating collocation;

iii. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

iv. Geotechnical report stating soil bearing capacities for bearing loads and foundation

design requirements;

v. Certifies that the tower is structurally sound and, if it should fail, under what conditions it might fail and the likely result thereof including a fall zone map which identifies all existing structures within the height of the proposed tower; and

vi. Certifications shall include the structural and soil engineer's stamp and registration number.

E. For all private, commercial wireless telecommunications service providers, a letter of intent committing the provider or tower owner and his or her successors and assignees, to permit collocation if technically feasible, and if another provider agrees in writing to meet reasonable terms and conditions of collocation.

F. A signed and stamped report from a certified electrical engineer or other professional having the expertise to attest to:

i. The electrical and radio frequency safety of an antenna receiving or transmitting radio waves associated with wireless telecommunications;

ii. Statement regarding levels on non-ionized electromagnetic radiation (HEIR) pursuant to Section 1125.01(m) by an individual qualified to make such statement. The qualifications of such individual shall be submitted in writing with the report.

iii. The intended transmission and the maximum effective radiated power of the antennas to be used.

iv. Certification that the proposed antennas will not cause interference with other telecommunication devices or other wireless equipment.

v. Direction of the lobes for maximum coverage capability and the associated radiation of the antennas.

G. The applicant shall include addresses for all residential and/or businesses within the minimum 300 feet notification limits. The Zoning Inspector shall reserve the right to request a greater notification boundary.

(4) Collocation of antennas and wireless telecommunications equipment on previously approved wireless telecommunications facilities shall not be subject to the approval procedure set forth in this section, but shall be subject to administrative review.

(5) All approved conditional use wireless telecommunication sites shall undergo a structural assessment for re-certification every five (5) years from the date of issuance of the occupancy permit from the Building Department. Said review shall be initiated in the fourth year by the Zoning Inspector. The assessment must be completed by a licensed structural engineer to verify the structural integrity of the structure. Such report shall be submitted in writing, signed and stamped with the engineer's registration number to the Zoning Inspector at least thirty (30) days prior to the expiration of the conditional use permit. Said report must identify any required maintenance that is needed and the tower owner shall provide details as to when the repairs shall be completed. If repairs are required, as identified by the structural engineer, the Zoning Inspector shall reserve the right to grant a temporary extension to the permit until such time as the repairs are completed. Once the repairs are made the structural engineer shall re-review the site and state if the structure is sound. The applicant shall be responsible for all costs associated with the hiring of the structural engineer.

(q) Wireless Telecommunications Glossary. Nomenclature unique to or commonly associated with the wireless telecommunications industry shall be understood to refer to that industry and to what this chapter regulates, and is made part of the definitions of this code, as may from time-to-time change. An extensive wireless telecommunications glossary may be kept on file in the

Building Department and may be supplemented and edited as determined by the Zoning Inspector to more effectively and efficiently execute this chapter.

(r) Application Fee. The City may charge a fee in addition to the Planning Commission agenda fee for site plan review to process an application to locate a tower, antenna or related wireless telecommunications facility in the City for the purpose of reimbursing the public for the time incurred and the skills employed by officials, employees and agents in processing applications in the amount as set forth in Section 1361.16 of the codified ordinances.

(s) Leasing By The City; Business Fees. The City may lease or rent at prevailing market rates the use of existing or new towers and related wireless telecommunications facilities to private or public service providers for collocation of antennas. A private or public service provider, or the City, may be the sole user of a tower, antenna or related wireless telecommunications facility. The City may itself lease or rent, or construct, place, modify and/or maintain, towers and related wireless telecommunications facilities on public or private property for exclusive or shared operations with other private or public service providers, and may charge any reasonable leases, fees or permits in a manner as would a private wireless telecommunications service provider under similar business circumstances.

(Ord. 26-22. Passed 4-26-22.)

1125.02 USE OF PUBLIC RIGHT-OF-WAY FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

(a) Purpose. The purpose of this chapter is to:

(1) Provide standards for the construction, installation, modification, operation, and removal of facilities and wireless support structures in the City's right-of-way to protect the health, safety, and welfare of the citizens of the City;

(2) Preserve the character of the City, including the City's neighborhoods, downtown, and historic districts;

(3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of facilities and wireless support structures; and

(b) Consent Required.

(1) Any person or entity seeking to collocate a small cell facility in the right-of-way, or to construct, maintain, modify, operate, or replace a wireless support structure in the right-of-way, shall first file a written application for a small cell use permit with the Director of Public Service in accordance with the requirements of this chapter, the Design Guidelines, R.C. Chapter 4939, and all applicable State and Federal laws and regulations.

(2) Applicants are strongly encouraged to contact the Director of Public Service and request a pre-application conference. This meeting will provide an opportunity for early coordination regarding proposed facilities, locations, design, application submittal, and the approval process in order to avoid any potential delays in the processing of an application and deployment of facilities in the City.

(3) A small cell use permit granted under this chapter shall not convey any right, title or interest in the right-of-way, but shall be deemed a permit only to use and occupy the public ways for the limited purposes and term stated in the permit, this chapter, and the Design Guidelines. Further, no small cell use permit shall be construed as any warranty of title.

(c) Permit Application Types. Applicants shall classify their application as one of the following types:

(1) Type 1: Eligible facilities requests.

(2) Type 2: Application for collocation of small cell equipment on a wireless support structure that does not constitute an eligible facilities request.

(3) Type 3: New wireless support structure. Such applications will address construction, modification, replacement, or removal of a wireless support structure within the right-of-way. At the time of application, applicants shall certify that small cell equipment will be placed on the wireless support structure within 180 days from the date the small cell use permit is issued.

(d) Consolidated Consent Applications.

(1) Pursuant to Ohio R.C. 4939.0312, an applicant may file one consolidated application for up to thirty (30) individual small cell facilities or thirty (30) individual wireless support structures as long as the facilities or structures for which consent is requested are substantially similar.

A. Small cell facilities shall be considered substantially similar when the small cell equipment is identical in type, size, appearance and function.

B. Wireless support structures shall be considered substantially similar when the wireless support structures are identical in type, size, appearance and function and are to be located in a similar location.

C. Applications for facilities and wireless support structures cannot be commingled.

(2) The City may, at its discretion, require separate applications for any small cell facilities or wireless support structures that are not substantially similar.

(e) Application Fee.

(1) The fee for each application is two hundred fifty dollars (\$250.00) and is nonrefundable. Beginning in August of 2025 and every five (5) years thereafter, the fee for each application shall increase automatically by ten percent of the application fee for the preceding five (5) year period, rounded to the nearest five dollars (\$5.00).

(2) An application shall not be reviewed for completeness unless the application fee has been paid.

(3) If applications are consolidated, then the fee shall be the sum resulting from the fee set forth in division (1) of this section multiplied by the total number of facilities or wireless support structures included in the consolidated application.

(f) Attachment Fee.

(1) In addition to the application fee, an annual fee shall be paid to the City for each small cell facility attached to a municipally-owned wireless support structure. The annual fee is two hundred dollars (\$200.00). Beginning in August of 2025 and every five (5) years thereafter, the annual fee shall increase automatically by ten percent (10%) of the annual fee for the preceding five (5) year period, rounded to the nearest five dollars (\$5.00).

(2) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

(g) Required Application Materials. The applicant must submit the following documentation with each application.

(1) Completed application form together with the non-refundable application fee. The application form shall include the identity, legal status and Federal tax identification number of the applicant, as well as all affiliates and agents of the applicant that will use or be, in any way, responsible for the facilities.

(2) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.

(3) Fully dimensional scaled site plan (scale no smaller than one-inch equals forty feet). The site plan must include:

- A. The exact proposed location of the facilities within the right-of-way;
- B. All existing facilities with all existing transmission equipment;
- C. The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the public way within 100 feet surrounding the proposed facilities;
- D. The legal property boundaries within 100 feet surrounding the proposed facilities;
- E. Indication of distance between the facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within 100 feet surrounding the proposed facilities; and
- F. Access and utility easements within 100 feet surrounding the proposed facilities.

(4) Elevation drawings (scale no smaller than one (1) inch equals ten (10) feet of the proposed facilities.

(5) Evidence that the applicant provided notice by mail to all property owners within 200 feet of the proposed facilities prior to submitting the application. The notice shall include:

- A. Name of the applicant;
- B. Estimated date applicant intends to submit the application;
- C. Detailed description of the proposed facilities and the proposed location; and
- D. Accurate, to-scale photo simulation of the proposed facilities. Scale shall be no smaller than one-inch equals forty (40) feet.

(6) A preliminary installation/construction schedule and completion date.

(7) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the wireless support structure can accommodate the weight of the proposed small cell equipment.

(8) Analysis demonstrating that the proposed facilities do not interfere with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the applicant to evaluate, prior to making the application for a small cell use permit, the compatibility between the existing City infrastructure and applicant's proposed facilities.

(9) A landscape plan that demonstrates screening of proposed small cell equipment.

(10) Drawings of the proposed facilities. For all equipment depicted, the applicant must also include, if applicable:

- A. The manufacturer's name and model number;
- B. Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
- C. The noise level generated by the equipment, if any.

(11) If the applicant is not an operator, then the applicant must provide proof that the applicant has been engaged by a wireless service provider who will be the end-user of the facilities.

(12) If the facilities are to be located on a wireless support structure that is not owned or operated by the City, then the applicant shall provide written confirmation of permission to use the wireless support structure from the owner or operator of the wireless support structure.

(h) Application Review.

(1) Applications shall be evaluated in the following timeframes:

- A. Type 1 Applications: Sixty (60) days
- B. Type 2 Applications: Ninety (90) days

C. Type 3 Applications: 120 days

(2) Applications shall be reviewed for completeness provided that the non-refundable application fee required under Section 1125.06 has been paid. If the application is incomplete, then the applicant will be notified of the insufficiency, and the timeframes set forth in division (1) of this section shall be tolled until the application is made complete.

(3) The timeframes set out in division (1) of this section may also be tolled as follows:

A. If the City receives between fifteen and thirty applications in a thirty (30) day period, then the City may toll for an additional twenty-one days.

B. If the City receives more than thirty applications in a thirty (30) day period, then the City may toll for an additional fifteen (15) days for every fifteen applications received.

C. By mutual agreement between the applicant and the City.

D. When an applicant submits an underground area waiver pursuant to the Design Guidelines, in which case the City may toll for an additional fourteen (14) days.

(4) If two applicants request to collocate on the same wireless support structure or two wireless support structures are proposed within a distance that would violate the spacing requirements set forth in the design guidelines, then the Director of Public Service may resolve the conflict in any reasonable and nondiscriminatory manner.

(5) If a request for consent is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the applicant. Grounds for denying an application may include, but are not limited to:

A. Failure to provide information required under Section 1125.02(g);

B. Failure to comply with the Design Guidelines;

C. Failure to provide financial surety pursuant to Section 1125.02(o);

D. Failure to remove abandoned facilities as required under Section 1125.02(l);

E. Conflict with the historic nature or character of the surrounding area;

F. Conflict with planned future improvements in the right-of-way; and

G. Failure to comply with generally applicable health, safety, and welfare requirements.

(6) Following completion of the installation, the applicant shall submit a complete set of as-built construction drawings of the facilities in a format acceptable to the City.

(i) Permitting Process, Duration, And Termination.

(1) Upon approval of its application, an applicant shall receive a small cell use permit indicating that the City has granted the applicant consent to occupy the right-of-way.

(2) A small cell use permit issued to an operator shall have duration of ten (10) years. Permits may be renewed for five (5) year terms.

(3) A small cell use permit issued to a facilities operator who is not an operator shall have a term of ten (10) years or the duration of the facilities operator's agreement with a wireless service provider provided pursuant to Section 1125.02(g)(11), whichever is shorter.

(4) A small cell use permit shall not be renewed if the facilities operator or the facilities are not in compliance with all applicable laws and regulations.

(5) Pursuant to Ohio R.C. 4939.0314(E), a small cell use permit shall be deemed terminated if the facilities operator has not completed construction of the facilities or has failed to attach small cell equipment to a wireless support structure within 180 days of issuance of the permit, unless the delay is caused by:

A. Make-ready work for a municipally-owned wireless support structure; or

B. Due to the lack of commercial power or backhaul availability at the site, provided that the

operator has made a request for commercial power or backhaul services within sixty days after the small cell use permit was granted. If the additional time to complete the installation exceeds 360 days after the issuance of the permit, then the permit shall be deemed terminated regardless of the cause of the delay.

(6) A small cell use permit for a new wireless support structure shall be deemed terminated if the facilities operator fails to attach small cell equipment to the new wireless support structure within 180 days of issuance of the small cell use permit.

(7) If the facilities operator fails to remit the annual attachment fee required pursuant to Section 1125.02(f), then the small cell use permit will expire on the ninetieth day from the date the annual attachment fee was due.

(8) A small cell use permit may be terminated by the facilities operator at any time upon service of sixty (60) days written notice to the City.

(9) Upon termination of a small cell use permit, the facilities operator shall restore and rehabilitate all City-owned wireless support structures and the right-of-way to their former condition and utility.

(10) The City shall not issue any refunds for any amounts paid by the facilities operator upon termination of the permit.

(j) Annual Registration.

(1) All facilities operators with consent to occupy or use the right-of-way shall register with the City each calendar year between January 1 and January 31 on a form provided by the City. The form will allow the facilities operator to indicate when there is no change in the information required, and when such indication is submitted, previously provided information will be considered current and will be relied upon. Facilities operators who obtain consent to occupy the right-of-way after September 30 of any year need not file an annual registration for next calendar year.

(2) The purpose of registration under this section is to:

A. Compile, update and supplement the City's database so that the City has accurate and current information concerning the facilities operators that own or operate facilities in the City's right-of-way;

B. Assist the City in monitoring the usage of the right-of-way in order to ensure that the public receives the maximum possible benefit from that use, and the use is consistent with the best management and care of the right-of-way;

C. Assist the City in the collection and enforcement of any municipal taxes, fees, or other charges that may be due the City; and

D. Assist the City in monitoring compliance with local, State and Federal laws.

(3) Registration forms will be provided by the City and shall require the following information:

A. Any material changes to the information the facilities operator provided to the City in the application for small cell use permit, including, but not limited to:

i. The identity of the facilities operator, including any affiliates or agents.

ii. The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the facilities operator's registration statement and available at all reasonable times to be notified in case of emergency.

iii. Evidence that the facilities operator is in compliance with the insurance, indemnity and financial surety requirements pursuant to this chapter.

B. Such other information as the Director of Public Service may reasonably require.

C. In addition to the annual registration requirement, each facilities operator shall keep all required registration information current at all times and shall provide the City with notice of

changes to the required information within fifteen days following the date on which the Facilities Operator has notice of the need for such change.

(k) Nonconforming Facilities.

(1) Facilities in the right-of-way that are legally in existence on the date of the adoption of this chapter but that do not comply with the requirements of this chapter may remain in the right-of-way but shall be considered a nonconforming facility.

(2) Any person or entity who owns or operates a nonconforming facility shall register such facility pursuant to Section 1125.02(j) within 90 days of the date this chapter take effect.

(3) If a nonconforming facility is damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this chapter, the Design Guidelines, and State and Federal law and regulations.

(l) Abandoned And Damaged Facilities.

(1) A facilities operator shall provide written notice to the City of its intent to discontinue use of any facilities. The notice shall include the date the use will be discontinued. If facilities are not removed within 365 days from the date the use was discontinued, the facilities shall be considered a nuisance and the City may remove the facilities at the expense of the facilities operator.

(2) In the event that facilities are damaged, the facilities operator shall promptly repair the damaged facilities. Damaged facilities shall be repaired no later than thirty (30) days after receiving written notice that the facilities were damaged. If the damaged facilities are not repaired within thirty (30) days, then the damaged facilities shall be considered a nuisance and the City may repair or remove the facilities at the expense of the facilities operator.

(m) Insurance Requirements.

(1) As a condition of the City's consent to occupy the right-of-way, a facilities operator must secure and maintain the following liability insurance policies insuring both the facilities operator and the City, and its elected and appointed officers, officials, agents and employees as additional insureds:

A. Comprehensive general liability insurance, on an occurrence basis, with limits not less than:

- i. Five million dollars (\$5,000,000) for bodily injury or death to each person;
- ii. Five million dollars (\$5,000,000) for property damage resulting from any one accident;

and

- iii. Five million dollars (\$5,000,000) for all other types of liability.

B. Automobile liability for owned, non-owned and hired vehicles with a limit of three million dollars (\$3,000,000) for each person and three million dollars for each accident.

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).

D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).

(2) Each such insurance policy shall contain the following endorsement: "It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ninety (90) days after receipt by the City, by registered mail, of a written notice addressed to the Director of Public Service of such intent to cancel or not to renew."

(3) Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the facilities operator shall obtain and furnish to the City replacement insurance policies meeting the requirements of this subsection.

(4) Upon written application to the Director of Public Service, and written approval by the Director of Public Service, the Mayor and the Finance Director, a facilities operator may be self-insured to provide all of the same coverages as listed in this section; except that all coverages for Worker's Compensation shall be in compliance with State law. No approval for self-insurance shall be given until the Director of Public Service, the Mayor and the Finance Director have made a complete review of the facilities operator's financial ability to provide such self-insurance. As part of the review process, the Finance Director may require, and the facilities operator shall provide any and all financial documents necessary to enable the Director of Public Service, the Mayor and the Finance Director to make a valid determination of the facilities operator's ability to provide the level of protection against risk otherwise required under this section.

(n) Indemnification. A facilities operator shall indemnify, protect, defend, and hold the City and its elected and appointed officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the operator who owns or operates small cell facilities and wireless service in the right-of-way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in the right-of-way.

(o) Financial Surety.

(1) Each facilities operator must procure, maintain and provide to the City a bond, escrow, deposit, letter of credit, or other financial surety in an amount sufficient to cover the cost of removal of all facilities owned or operated by the facilities operator.

(2) The City may, in its sole discretion, draw on the financial surety to remove abandoned facilities, remove abandoned, unused, or unsafe facilities, or to repair damaged facilities, or to repair damage to any City property caused by the facilities operator or its agent. In such event, the facilities operator shall cause the financial surety be replenished to its prior amount within ten business days after City notifies the facilities operator that it has drawn on the financial surety.

(p) Reserved Space. The City reserves the right to install, and permit others to install, facilities in the right-of-way. The City may reserve space in the right-of-way and on wireless support structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the Mayor, Director of Public Service, City Council or Planning Commission.

(q) Removal Or Relocation Of Facilities.

(1) Consistent with Ohio R.C. 4939.08, the City may require a facilities operator to remove or relocate facilities to accomplish construction and maintenance activities or to accommodate an expansion of the right-of-way. The facilities operator shall remove or relocate the facilities at no cost to the City. If the facilities operator fails to remove or relocate the facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the facilities at facilities operator's sole cost and expense, without further notice to the facilities operator.

(2) If the facilities are placed in a location other than the location approved by the City, the facilities operator shall relocate the facilities within thirty (30) days of receiving notice that the facilities are located improperly.

(r) Notice Of Work. A facilities operator shall notify the Director of Public Service of all non-emergency work within ten calendar days prior to performing any upgrades or maintenance on any

facilities, regardless of whether the work requires any permit or consent from the City. Notice of emergency work shall be provided to the Director of Public Service as soon as is practicable after discovery of the condition or event requiring the emergency work.

(s) Excavation Permit. If a facilities operator must construct, reconstruct, alter, repair, remove or replace any culvert, sidewalk or driveway in any right-of-way, then the facilities operator shall obtain all permits required by the City's ordinances.

(t) Promulgation Of Design Guidelines. The Mayor, Director of Public Service may, from time to time, promulgate Design Guidelines that are not inconsistent with this chapter or State or Federal law.

(Ord. 26-22. Passed 4-26-22.)

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- Ordinances of Sheffield Lake, OH
- ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- ORDINANCE NO. 116-84
- ORDINANCES OF SHEFFIELD LAKE
- effective part of the City's emergency response network; and
- ording to the Official Zoning Map as a conditional use
- amended
- order to accommodate the communications needs of residents and businesses while protecting the health, safety and general welfare, the City recommends and encourages the placement of
- order of preference:

- order to locate wireless telecommunications towers and related facilities in residential zoning districts, the applicant-service provider shall demonstrate to the Planning Commission
- effective, and that in order to provide wireless telecommunications services to the residents and businesses in such a manner which serves their best interests, such towers and facilities m
- ordinate and in deference to the use of private, residentially zoned or used property, by minimizing the visual effect on adjoining and vicinity residential properties, and to minimiz
- order, on a case-by-case basis, by the wireless telecommunications service provider making the request
- amended, the provider shall submit written verification of such fact
- ording to the following requirements:
- ordinary tone of it construction materials, such as the grayish color of galvanized steel
- ordinance. (3) Historic Districts
- order to provide wireless telecommunications service, such towers or facilities may not be located elsewhere within the City
- amended, or other applicable law
- orded an opportunity to provide rebuttal to the expert's review and re-review prior to the formal departmental review and submission to Planning Commission in accordance with the Plan
- adopted or promulgated by the City, the County, the State or the United States of America
- effective wireless telecommunications services for the public and regulating their location to promote the general welfare
- effective radiated power of the antennas to be used
- effectively and efficiently execute this chapter
- ordinances
- Ord. 26-22
- ordance with the requirements of this chapter, the Design Guidelines, R
- ordination regarding proposed facilities, locations, design, application submittal, and the approval process in order to avoid any potential delays in the processing of an application
- order to ensure that the public receives the maximum possible benefit from that use, and the use is consistent with the best management and care of the right-of-way;
- ordance with all provisions of this chapter, the Design Guidelines, and State and Federal law and regulations
- ordinance or plan approved by the Mayor, Director of Public Service, City Council or Planning Commission
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- Ordinances should be consulted prior to any action being taken
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