

**CHAPTER 1169**  
**Regulations for Wireless Telecommunication Facilities**

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**1169.01 INTENT.**

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

- (a) To protect property values;
- (b) To regulate a commercial use so as to provide for orderly and safe development within the City;
- (c) To provide for and protect the health, safety and general welfare of the residents of the City;
- (d) To minimize any adverse effects on residential properties, parks, open spaces and the non-intensive commercial zoning districts; and
- (e) To promote collocation of wireless telecommunication facilities in order to decrease the number of towers in the City.

**1169.02 DEFINITIONS.**

- (a) Collocation: The use of a wireless telecommunications facility by more than one wireless telecommunications provider or by one provider for more than one type of telecommunication technology.
- (b) Lattice tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.
- (c) Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- (d) Technically Suitable: The location of a wireless telecommunication antenna that reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.

- (e) Telecommunications: The technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.
- (f) Wireless telecommunications antenna: The physical device through which electromagnetic, wireless telecommunications signals authorized by the FCC are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
- (g) Wireless telecommunications facility: A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
- (h) Wireless telecommunications tower: A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

**1169.03 PERMITTED LOCATIONS.**

A wireless telecommunications tower or facility is permitted in the following areas when in compliance with these regulations and approved by the Planning Commission according to the procedures set forth in Chapter 1183, Development Plan Review. Efforts shall be made to locate in the areas listed in the order of priority listed. If a location other than the most preferred location is proposed, the applicant shall demonstrate to the Planning Commission that a technically suitable, higher priority location is not available and that the proposed location is needed to meet the reasonable service requirements of the applicant.

- (a) New wireless antennas may collocate on existing telecommunication towers or on existing structures, which have been constructed for other purposes, such as but not limited to water towers, church towers, electric transmission towers, chimneys, and cooling towers.
- (b) A wireless telecommunication tower may be located in a C-2, M-U, I-1 or I-2 zoning district, when located a distance at least 2 times the height of the tower from a residential district.
- (c) A wireless telecommunication tower may be located within a recorded electric high tension power line easement, provided that the tower shall not exceed the height of the existing high tension power line towers by more than 10 feet and the wireless telecommunication tower shall be located within 40 feet of such existing high tension power line towers.

**1169.04 LOCATIONS REQUIRING CONDITIONAL USE APPROVAL.**

A wireless telecommunications tower or facility may be considered in the following areas as a conditional use when approved by the Planning Commission according to the procedures set forth in Chapter 1185, Conditional Use Certificates. When considering an application, the Planning Commission shall determine that the applicant demonstrates compliance with the standards set forth in Section 1169.05 as well as the standards set forth in Chapter 1161, Conditional Use Regulations, and the applicant has demonstrated that more preferred locations are not technically suitable. Efforts shall be made to locate the towers in the order of priority listed.

- (a) In a C-2, M-U, I-1 or I-2 zoning district, when located less than twice the height of the tower from a residential district.
- (b) In a C-1 and C-3 zoning district, when located at least twice the height of the tower from a residential dwelling.
- (c) In an R-1, R-2 and R-3 zoning district, when located at least twice the height of the tower from an existing residential dwelling.

**1169.05 STANDARDS APPLICABLE FOR CONDITIONAL USE APPLICATIONS.**

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

- (a) A wireless telecommunication facility shall be permitted in a location set forth in Section 1169.04 only to the extent that a technically suitable location is not available in an area identified in Section 1169.03. The applicant shall demonstrate that a technically suitable location in an area identified in Section 1169.03 is not available because:
  - (1) A technically suitable location does not exist in any area set forth in subsection 1169.03. The applicant shall provide documentation that supports the applicant's claim that no such technically suitable location exists; or
  - (2) If another tower, building or structure set forth in subsection 1169.03 is technically suitable then the applicant must show that reasonable efforts have been made to:
    - A. Request co-location on the existing tower(s), building(s) or structure(s) and that each co-location request was rejected by the owner of the tower, building or structure; or
    - B. Request all owners of properties that are determined to be technically suitable locations to allow it to construct a

wireless telecommunication tower under reasonable terms and that each request was rejected.

- (b) As a condition of approving the conditional use permit to construct and operate a wireless telecommunication tower in the City, the owner/operator of the wireless telecommunication tower shall be required to allow co-location until said tower has reached full antenna capacity. In no event shall the owner/operator agree to allow fewer than two additional antenna platforms. Agreement to this provision shall be included in the applicant's lease with the landowner, if different from the owner/operator of such tower. Written documentation shall be presented to the Planning Commission showing that the owner of the property on which such tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this Section.
- (c) Any wireless telecommunication tower proposed as a conditional use shall be located a minimum of one-half mile from any other wireless telecommunication tower proposed or previously approved as a conditional use.

**1169.06 STANDARDS APPLICABLE TO ALL WIRELESS TELECOMMUNICATION FACILITIES.**

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

- (a) Towers shall be of monopole design with no guy wires. The Planning Commission may approve a lattice-type structure when the applicant demonstrates that such a structure provides greater ability to collocate additional antenna. Towers and antennas shall be designed to meet all applicable building code requirements.
- (b) Unless otherwise provided for in this Section, a wireless telecommunication facility must comply with the setback and yard requirements applicable to buildings in the underlying zone in which it is located. A wireless telecommunication tower must be placed upon the lot in such a way as to minimize the visual impact on adjoining roads and properties. In no event shall any portion of a wireless telecommunication facility be located in front of the principal use or building on the lot, if any.
- (c) Recognizing that the Federal Aviation Administration (FAA) may impose greater restrictions, a wireless telecommunication tower shall in no event be more than 200 feet in height as measured from the average ground level at the base of the tower. The applicant of a proposed tower shall demonstrate that the proposed tower is the minimum height necessary to accommodate the antenna and is no higher than existing towers housing similar antenna.
- (d) Any accessory structure related to the wireless telecommunication facility shall comply with the district regulations in which the tower is located.
- (e) The base of the tower and all related facilities shall be completely enclosed with a secure fence having a minimum height of eight (8) feet. Such fence shall be equipped with a locked gate.
- (f) A landscaped buffer area of not less than fifteen (15) feet in depth shall be located around the required fence. The buffer area shall be continuously maintained and promptly restored when necessary and shall consist of at least one of the following:
  - (1) A row of hardy evergreen trees tightly spaced. The initial plantings shall be no less than six feet tall and planted a maximum of five (5) feet on center.
  - (2) Existing vegetation, inclusive of trees and shrubs, shall be preserved to the maximum extent possible.
  - (3) Other appropriate landscaping that achieves the screening objective, as approved by the Planning Commission.

- (g) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the FAA.
- (h) The tower shall be equipped with an appropriate anti-climbing device or shall have all climbing pegs from the lower 20 feet of the tower removed and separately secured from the public.
- (i) Except as required by law, an antenna or a tower shall not be illuminated and lighting fixtures shall not be attached to the antenna or tower. Lighting for security purposes shall be permitted at the base of the wireless telecommunication tower.
- (j) “No Trespassing” signs and a warning sign shall be posted on the required fence in clearly visible locations. The warning sign shall include phone numbers for the police, fire and county emergency management facilities, and a local or toll-free telephone number of whom to contact in the event of an emergency. The warning sign shall be 12 inches by 12 inches. No other signs or advertising shall be located anywhere on the facility or site.

**1169.07 ABANDONED TELECOMMUNICATIONS FACILITIES.**

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

**1169.08 APPROVAL REQUIRED.**

- (a) All wireless telecommunications towers and facilities shall comply with the procedures for development plan review set forth in Chapter 1183. In addition to the submission requirements set forth in Section 1183.06, the applicant shall submit the following additional items:
  - (1) Detailed description of the wireless telecommunications towers or facility's capacity including the number and types of antenna that it can accommodate.
  - (2) Documentation certifying that the wireless telecommunication facility complies with all current Federal Communications Commission (FCC) regulations for non-ionizing electromagnetic radiation (NIER).
  - (3) A vicinity map (at a scale of 1" = 1,000") indicating within a two-mile radius of the proposed site the location of all wireless telecommunications towers and facilities and electrical utility high-tension wires.
  - (4) A list of names and phone numbers of whom to contact in an emergency. This list shall be kept current at all times.
  - (5) A list of any and all hazards that are within the secured area.
- (b) Prior to the issuance of a zoning permit, the applicant shall post a performance bond, the amount of which is determined by City Council. The bond shall be for the purpose of insuring that an abandoned, obsolete or destroyed wireless telecommunication facility shall be removed in compliance with Section 1169.07. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.
- (c) Prior to receiving approval for a new tower, the applicant shall demonstrate to the City that such facility is needed to meet the reasonable service requirements of the applicant. This assessment shall include consideration of alternative sites and the operational implications of such alternatives with respect to, but not limited to, height, opportunities for co-location, impact on residents and impact on service levels. The City may retain consultants to review the information, with the reasonable costs for such consultation being borne by the applicant.