

CHAPTER 146

WIRELESS COMMUNICATIONS TOWERS

146.01 Purpose
146.02 Definitions
146.03 Process
146.04 Where Permitted

146.05 Design Standards
146.06 Other Design Requirements
146.07 Abandonment

146.01 PURPOSE. The special provisions of this chapter are intended to regulate the location of new communication towers and antennas. The Telecommunications Act of 1996 restructured and deregulated many aspects of the country's communications industry. New telecommunication providers entering the market desire to build a network that can require additional freestanding communication towers as well as antennas mounted on existing buildings and other structures. It is the desire of the City to encourage an aesthetically pleasing local environment. It is also the intent of the City to encourage the expansion of wireless technology, because it provides a valuable service to residents and businesspersons in the City. It is not the City's goal to unreasonably discriminate among providers of functionally equivalent services; and to not have the effect of prohibiting, either directly or indirectly, the provisions of personal wireless services. It is the goal to encourage wireless providers to construct new facilities disguised as public art pieces, as natural vegetation, or to mount antenna on buildings in a way that blends architecturally with the built environment. In accordance with applicable zoning regulations, any request to place, construct, or modify personal wireless services facilities shall be acted on within a reasonable time after the request is duly filed with the proper City office, taking into account the nature and scope of each request. Any decision to deny a request to place, construct, or modify personal wireless services facilities shall be in writing and supported by substantial evidence contained in a written record. The goals are:

1. To minimize the adverse visual effects of communication structures through careful design, siting, locating, and screening;
2. To locate and engineer communications support structures to mitigate potential damage to adjacent properties from structural failure;
3. To allow for the reasonable location and efficient use of communication structures through co-location of carriers; and
4. To preserve and improve the peace, safety, health, welfare, comfort, and convenience of the citizens of the City.

146.02 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "Camouflage design" describes a piece of art, or an architectural structure or element, that functions as a communications facility and aesthetically blends with the surrounding historical or aesthetically sensitive environment. Examples of camouflage design include, but are not limited to, flagpoles, clock towers, monuments, and church steeples. Camouflage design also applies in the architectural integration of communication facilities onto existing buildings, sports field lights, highway sign, water towers, etc. All such designs are subject to review and approval of the communications carrier, the landlord, and the Planning and Zoning Commission. If deemed to be of major significance, the request would be contingent upon final approval by the Board of Adjustment, after review by the Planning and Zoning Commission.

2. "Communications structure" means any tower or any other structure that supports devices used in the transmission or reception of microwave energy, analog data transfer techniques, radio frequency energy, and other digital data transfer techniques.
3. "Communications structure site" means a tract or parcel of land that contains the wireless communication structure, accessory buildings, and parking, and may include other uses associated with and necessary for wireless communication and transmission.
4. "Effectively screened" means an area of planting which provides an effective visual barrier. For a single row, the screen shall consist of spruce, firs, or pines spaced at a maximum spacing of 15 feet; or a double staggered row of spruce, firs, or pines spaced at a maximum spacing of 20 feet within each row; for *Arborvitae* and juniper, the spacing shall be a double staggered row with maximum spacing of 10 feet within each row, or a single row with maximum spacing of 6 feet.
5. "Minimum height" means the lowest vertical distance at which the structure can still operate at an efficient level of service. An efficient level of service is deemed to be 95 percent or greater of possible operative levels.
6. "Monopole" means a self-supporting, cylindrical, metallic pole used as a communications support structure and engineered to support more than one communications carrier in exchange for a rental fee.
7. "Multiple use facilities (co-location effort)" means wireless communications facilities that are shared with other existing or newly constructed uses, such as, but not limited to, sports field lights, retail business highway signs, flagpoles, or other shared competing communications facilities, etc.
8. "Significance, major" means a request meeting the criteria as described in Section 146.03(2). Any deviation from the design standards may revert to a request of formerly minor significance to this classification.
9. "Significance, minor" means a request meeting the criteria described in Section 146.03(1) and being in compliance with design standards.
10. "Structure height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the cell site shall be used in calculating the height.
11. "Tall structure" means any structure the top of which is more than 50 feet above grade.

146.03 PROCESS.

1. Minor Significance. The proposed structure shall be subject to review and approval by the Building Inspector if any of the following are true (Agricultural, Manufacturing, and/or Commercial classifications):
 - A. All proposed structures to be constructed as a monopole design.
 - B. All proposed structures to be co-located on an existing communications facility or structure at least 50 feet in height.
 - C. All proposed structures to be set back 1.5 times the height of the tower from the nearest property line and of monopole design.
2. Major Significance. The proposed structure shall require review by the Planning and Zoning Commission if any of the following are true:

- A. Agricultural and Manufacturing zoning classifications: lattice or guyed design towers as specified in Section 146.05(4) as contained herein.
- B. Commercial zoning classifications: any structure not employing monopole design or co-located upon an existing communications facility or structure equal to or greater than 50 feet in height.
- C. Residential zoning classification or uses: any structures.

146.04 WHERE PERMITTED. The proposed structure is classified as a permitted use, upon approval as noted above in Sections 146.03(1) and (2), if any of the following are true:

- 1. Agricultural and Manufacturing zoning classifications and any other specific plans allowing such uses:
 - A. Communications structures are not permitted within 150 feet of an interstate or state highway. The tower shall be setback a distance equal to 1.5 times the height of the tower. This shall be measured from the outermost point of the base to the nearest property line.
 - B. When mounted on a building and architecturally integrated into an existing structure and/or multiple use facilities.
 - C. When the structure uses camouflage or monopole design.
- 2. Residential and Commercial zoning classifications and specific plans allowing such uses:
 - A. When mounted on a building and architecturally integrated into an existing structure and/or multiple use facilities.
 - B. When the structure uses camouflage or monopole design.

146.05 DESIGN STANDARDS. The proposed structure must comply with the following provisions prior to the issuance of any permits.

- 1. Necessity. The wireless communications company shall demonstrate that the antenna must be located where it is proposed in order to satisfy the antenna's function in the company's grid system.
- 2. Co-Location Effort. If the wireless communications company proposes to build a tower (as opposed to mounting the antenna on an existing tall structure), it shall demonstrate a reason of substantial nature describing the inability to co-locate. This demonstration shall utilize one or more of the following criteria to satisfactorily illustrate why co-location on an existing tall structure is infeasible:
 - A. Structural Infeasibility. The wireless communications company shall provide a structural analysis to show the structural loading, minimum height, available space on the existing structure, or available ground space at the proposed site is inadequate to serve its needs for a viable communications structure site.
 - B. Economic Infeasibility. Co-location on an existing tall structure is an incentive to, and is in the economic best interest of, each wireless communication company shall provide evidence, to include written assurances in the form of affidavits, that it could not obtain permission from owners of tall structures within a ¼-mile radius of the proposed site to install its antennas on those tall structures.

The Planning and Zoning Commission may deny the permit if it concludes that the applicant has not made a good faith effort to mount the antenna on an existing structure or for any other reason within the scope of its authority.

3. Structure Height. The applicant shall demonstrate, to the reasonable satisfaction of the Building Inspector and the Planning and Zoning Commission that the structure is the minimum height required to function satisfactorily while simultaneously providing adequate structural height for possible co-locators. The Planning and Zoning Commission has the right to deny any structures above the determined height unless otherwise shown the structure would be inoperable.

4. Setbacks from Base of Structure. The minimum distance between the base of the structure of any guy anchors and any property line shall be the largest of the following:

- A. 50 percent of antenna height;
- B. The minimum setback in the underlying zoning district;
- C. 60 feet;
- D. If erected in a residential zone, 1.5 times the tower height.

5. Structure Safety. The applicant shall demonstrate through proof of insurance, compliance with setback requirements, and submittal of engineering studies, that the proposed structure is safe, according to 1996 FCC Regulations in terms of radio frequency transmissions, and the surrounding areas will not be negatively affected by structure failure. All support structures shall be fitted with anti-climbing devices as approved by the manufacturers. Any such failure or interference shall be the responsibility of the applicant to remedy.

6. Fencing and Landscaping. An opaque fence shall be installed around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure or camouflage design is employed. The fence shall be a minimum of six feet in height and serve to screen the base of the structure and improve security. No such fence may use barbed wire closer than six feet to the ground. Said fencing shall be effectively screened on the outside (as defined in this section).

7. Co-Location. In order to reduce the number of communication structures in the community, the proposed structure shall be required to accommodate other users, including other wireless communication companies, and local police, fire and ambulance companies.

8. FCC License. The wireless communication company shall provide proof that it is licensed by the Federal Communications Commission to conduct business in the Evansdale market.

9. Required Parking. If the communication structure site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the maximum working shift. Structures must be constructed of a material compatible with existing abutting property building unless specifically proven to be unattainable. This is to reduce the visual impact of the structure and create an appearance which is compatible and harmonious with the surroundings.

10. Painting. Antenna support structures shall be painted, if determined necessary in process of request, in such a manner as to reduce the visual impact and create a harmonious appearance with their surroundings.

11. Site Plan. A full site plan shall be required for all communication structure sites, showing the structure, antenna support structure, building, fencing, buffering, and access.

12. Air Safety. All structures will meet the guidelines for an FAA Determination of no hazard.

146.06 OTHER DESIGN REQUIREMENTS.

1. Support facilities such as equipment rooms and cabinets and cellular switching devices shall be designed to match the architecture of adjacent buildings. In the event the wireless company chooses not to house support facilities such as equipment rooms and cellular switching devices, the facility shall be screened from public view by walls, fences, trellises, landscaping, or similar treatments.

2. No chain link fence associated with any wireless communication facility is permitted unless effectively screened as defined in this section.

3. Temporary poles may be permitted for a period of up to six months, subject to review and extension, if an application for a permanent facility has been filed and the necessity for temporary service can be proven to the satisfaction of the City. Final approval of a temporary facility shall be subject to the review and approval as defined in the process section (146.03).

4. Lattice towers shall not be permitted anywhere in the City unless located in an Unclassified Zone, designated in the Long Range Land Use Plan for manufacturing use, or a Manufacturing zone. These towers shall be constructed with a setback from any right-of-way lines, property lines, or residential districts which shall be equal to or greater than 1.5 times the height of the tower.

5. All utilities associated with wireless communication facilities shall be underground unless demonstrated by the company that the local utility company has determined that it is impractical. This regulation applies only in residential or commercial zoning classifications.

6. The facility operator or property owner shall be responsible for maintaining the facility in good appearance, which shall include (but not be limited to) regular cleaning of the facility, keeping the facility painted as needed, keeping bird nests and other similar items clear of the antenna area, and all-around maintenance of the facility.

146.07 ABANDONMENT. All approvals for wireless communication facilities shall be in effect only while the facilities are being operated on a continual basis. When the use is replaced or discontinued for a period of six months, the approvals will lapse; and the operator or property owner shall be required to remove the facility and all associated equipment and restore the property to its original or otherwise acceptable condition, subject to the approval of the Building Inspector.

[The next page is 685]