

ORDINANCE NO.: 06-05
SPONSOR: MAYOR BOLLAS
INTRODUCED: JULY 5, 2006

AN ORDINANCE TO REGULATE THE PLACEMENT AND CONSTRUCTION OF WIRELESS TELECOMMUNICATIONS TOWERS IN NEW FRANKLIN, AND DECLARING AN EMERGENCY.

WHEREAS, it is the desire of New Franklin to exercise its rights as a municipality to regulate and oversee the construction of wireless telecommunications towers in New Franklin.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE: PURPOSE.

- a) The purpose of this ordinance is to provide for the regulation of, and to establish guidelines for, the site process and construction of wireless telecommunications towers (cellular towers) located in the City of New Franklin, and to ensure the promotion of the public health, safety, comfort and welfare of the citizens of the City. The regulations provided in this ordinance are presented as minimum standards and requirements.
- b) The construction of new wireless telecommunications towers and related facilities is hereby determined to be a conditionally permitted use in all zoning districts. The placing of wireless telecommunications antennas on any legal tower, building or structure within the City is determined to be a conditionally permitted use in all zoning districts.
- c) All new construction, or the placement of equipment shall conform to the regulations of the district in which it is located and to the additional development standards and supplementary regulations contained herein.

SECTION TWO: DEFINITIONS.

As used in this chapter the following words and terms shall be defined as follows:

- a) **Co-location:** The use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- 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) **Open space:** Land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped (may be specified on a zoning map).
- e) **Telecommunications:** The technology which 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 Federal Communication Commission 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 shelter:** The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
- I) **Wireless telecommunications tower:** A structure intended to support equipment used to transmit and/or receive telecommunications signals, including monopoles, and guyed and lattice construction steel structures.

SECTION THREE: GENERAL CONSTRUCTION STANDARDS.

Proposed new telecommunication shall comply with the following development standards. Wireless telecommunications towers/facilities are permitted as a sole use on a lot or when combined with another use, subject to all existing regulations in each district and the following:

- a) The tower must be set back from any property line or existing structure off the lot on which the tower is to be located by a distance equal to the vertical height of the tower.
- b) The tower must not exceed 150 feet (including antenna) if designed for use by a single user; 175 feet if designed for use by two co-users; and 200 feet if designed for use by three co-users. Due to the proximity of the Akron-Canton Regional Airport, all wireless telecommunications towers must also receive Federal Aviation Administration (FAA) clearance and concurrence of the FAA decision by the Airport Director before construction may proceed.
- c) The maximum size of the equipment shelter shall be 300 square feet, or if there is more than one shelter, a total of 750 square feet.
- d) When a wireless telecommunications tower/facility is to be located on a property with an existing use:
 - 1) The existing use need not be affiliated with the wireless telecommunications provider.
 - 2) The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
 - 3) The service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
- e) Security fencing, eight feet in height, shall surround the tower, the equipment shelter and any guy wires, either completely or individually,

as determined by the Planning Commission.

- f) A vegetative screen shall be planted that consists of one row of a mixture of evergreen and deciduous trees or privet hedge planted five feet on center maximum. A landscaping plan is required to be submitted that indicates how the wireless telecommunications facility will be screened from adjoining properties.
- g) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- h) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a mile of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within sixty days. The applicant shall present proof of mailing as well as responses to the Planning Commission as a means of demonstrating the need for a new tower. If a contacted wireless service provider fails to respond to a written request for co-location from the applicant within sixty days, the Planning Commission may accept the non-response as proof that co-location on an existing tower is not feasible.
- i) No advertising is permitted anywhere on the facility, with the exception of identification signage.
- j) "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.
- k) Applicants will provide evidence of legal access to the tower site and maintain this access regardless of other developments that may take place on the site.
- l) No tower shall be artificially lighted except to assure safety or as required by the FAA. Security lighting around the equipment shelter is prohibited, unless specifically requested by the applicant and a need is proved to the Planning Commission.
- m) The tower shall be painted a neutral tone, i.e. desert sand/khaki, so as

to minimize its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

- n) The electromagnetic field levels of the tower shall conform to the standards developed by the National Council on Radiation Protection and Measurement (NCRP Report No. 86) or by the American National Standards Institute and the Institute of Electrical and Electronics Engineers (ANSI/IEEE C95.1-1992).

SECTION FOUR: CONSTRUCTION IN RESIDENTIAL DISTRICTS.

The construction of wireless telecommunications towers/facilities in residential zoning districts shall conform to all applicable existing zoning regulations, all development standards contained herein and the following supplementary regulations:

- a) In applying for a permit to construct a wireless telecommunications tower/facility in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts to locate in a nonresidential zone have been exhausted, a wireless telecommunication facility may be located in a residential district.
- b) When the telecommunications facility is located on property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.

SECTION FIVE: PLACEMENT OF ANTENNAS AND EQUIPMENT.

The placing of wireless telecommunications antennas on any legal tower, building or structure within the City is determined to be a conditionally permitted use in all zoning districts. The placement of equipment shall conform to the regulations of the zone in which it is located, as well as the following:

- a) Business and Industrial Zoning Districts. No wireless telecommunications antenna shall be higher than twenty feet or twenty percent of the building height, whichever is greater, above the existing tower, building or structure in a Business or Industrial Zoning District.
- b) Residential Zoning Districts. No wireless telecommunications antenna shall be higher than twenty feet above the existing tower, building or structure in a residential zoning district.
- c) Equipment Shelters. If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on or attached to the building), the shelter shall comply with all applicable development standards contained herein. Also, vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

SECTION SIX: REVIEW AND APPROVAL OF PLANS.

No person or entity shall construct a wireless telecommunications tower and facility, or place a wireless telecommunications antenna, on any legal tower, building or structure, without a site plan review, a public hearing, and approval by the Planning Commission, as specified below:

- a) The site plan for the construction of a wireless telecommunications tower and related facility shall be reviewed and approved according to the standards and procedures set forth in the New Franklin Planning and Zoning Code.
- b) The placing of a wireless telecommunications antenna on any legal tower, building or structure (which may or may not involve co-location with another wireless service provider) shall be reviewed and approved according to the standards and procedures set forth in the New Franklin Planning and Zoning Code, and the site plan shall consist of a drawing and depiction which accurately conveys the following information:
 - 1) A vicinity map indicating the location of the site and the existing structure;
 - 2) The location of the antenna on the structure;

- 3) The length of any projection above the existing structure (if applicable); and
- 4) The location of the equipment shelter. If the equipment shelter is separate from the structure, its size, fencing, landscaping, setbacks and evidence of legal access to the site shall be indicated.

All other applicable site plan review procedures, as set forth in the New Franklin Planning and Zoning Code shall also be adhered to.

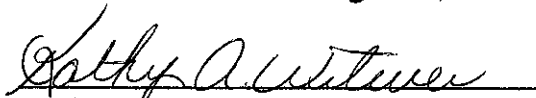
SECTION SEVEN: OPEN MEETINGS

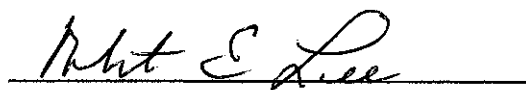
The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION EIGHT: EMERGENCY CLAUSE

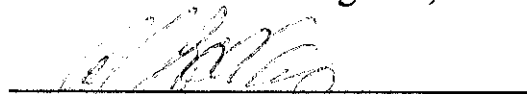
Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of New Franklin. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: August 2, 2006


Kathy A. Witwer, Clerk


Robert E. Lee, President, Pro-Tem

APPROVED: August 2, 2006


Al Bolas, Mayor

ENACTED EFFECTIVE: August 2, 2006

ON ROLL CALL:

Mr. Adamson, Absent.

Mr. Hess, Yes.


Mrs. Jones, Yes.

Mr. Lee, Yes.

Mr. Mobley, Yes.

Mr. Stock, Yes.

Akron Legal News Publications on August 11, 2006 and August 18, 2006.


Kathy A. Witwer, Clerk