

CHAPTER 1160  
B-4 Commercial Recreation District

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1160.1 PURPOSE.

The purpose of the Commercial Recreation District is to regulate intensive recreation, resort and entertainment uses in order to mitigate their impact on surrounding, less intensive, land uses. Because of their size, late hours of operation and wide range of ancillary activities, a major theme park creates significant impacts unlike any other uses in the B-1, B-2 or B-3 Business Districts. Therefore, a special district was created to accommodate these activities.

1160.2 PRINCIPAL PERMITTED USES.

- A) Mechanical rides or attractions.
- B) Indoor movie theaters.
- C) Amphitheaters.
- D) Arcades.
- E) Specialty retail shops and restaurants.
- F) Stages.
- G) Swimming facilities.
- H) Other similar uses compatible with items **A** through **G**.
- I) Hotels and conference facilities.
- J) Professional offices.
- K) Cellular or wireless communication systems. See Chapter 1188 for additional requirements.**

## 1160.3 ACCESSORY USES.

- A) Temporary lodging including apartments and dormitories.
- B) Water distribution and pumping facilities for the exclusive use of on-site operations.
- C) Building and mechanical assembly and repair facilities for the exclusive use of on-site operations.
- D) Fences.
- E) Ticket booths or guard shacks.
- F) Signs.

## 1160.4 DEVELOPMENT STANDARDS.

- A) Setbacks. Minimum setbacks from rights-of-way and property lines shall be as follows:

Table 1160: B-4 Setbacks

Permitted Use	Setback from Right-of-Way	Property Line Setback	
		Front	Side and Rear
1) Mechanical rides or attractions	500 feet	500 feet	100 feet
2) Indoor movie theaters			
3) Amphitheaters			
4) Arcades			
5) Specialty retail shops and restaurants (a)			
6) Stages			
7) Swimming facilities			
8) Water distribution and pumping facilities			
9) Building and mechanical assembly and repair facilities			
10) Hotels	50 feet	50 feet	25 feet
11) Conference facilities			
12) Professional offices			
13) Parking garages	50 feet	50 feet	25 feet
14) Parking lots	15 feet	15 feet	15 feet
(a) May be permitted no closer than 75 feet to a right-of-way if an extension of an existing building.			

- B) Minimum Lot Area - 2 acres.
- C) Minimum Lot Width - 200 feet.
- D) Maximum Building Height. The maximum building height for all principal permitted uses within 200 feet of a right of way shall be forty feet.
- E) Landscaping. All uses within 200 feet of a right of way shall comply with the requirements of the Landscape Ordinance.
- F) Parking. Off-street parking shall be provided as specified in Chapter 1175.
- G) Signs. All signs within 200 feet of a right-of-way shall comply with the requirements according to Chapter 1187.
- H) Lighting. Lighting shall be reflected away from adjacent residential districts.
- I) Noise. All uses shall comply with the city's Noise Ordinance.

1160.5 APPROVAL REQUIRED.

Uses in this district shall comply with the approval procedures pursuant to Chapter 1135 except as specifically exempted below:

Permitted uses contained in Section 1160.2, paragraphs **A** through **H** and located a minimum of 500 feet from any right-of-way shall be exempt from the procedures contained in Chapter 1135 except that permits shall be required for all structures.

Accessory uses located a minimum of 50 feet from a right-of-way and less than 200 square feet in area shall be exempt from the procedures contained in Chapter 1135.

CHAPTER 1188  
Cellular or Wireless Communications Systems

1188.1	PURPOSE.	1188.5	MAINTENANCE.
1188.2	APPLICATION PROCEDURE.	1188.6	REMOVAL.
1188.3	STANDARDS OF APPROVAL.	1188.7	PROHIBITIONS.
1188.4	DEVELOPMENT STANDARDS.		

1188.1 PURPOSE.

The purpose of regulating cellular or wireless communications systems is to:

- A) Accommodate the need for cellular or wireless communications towers and facilities for the provision of personal wireless services while regulating their location and number in the city.
- B) Minimize adverse visual effects of communications towers and support structures through proper siting, design, and screening.
- C) Avoid potential damage to adjacent properties from communication tower and support structure failure.
- D) Encourage the joint use of any new and existing communications towers and support structures to reduce the number of such structures needed in the future.
- E) Apply to all of the areas within each zoning district of the City of Mason, including, but not limited to, parks, highways, rights-of-ways, and areas lawfully not in conformity with the current zoning regulations.

1188.2 APPLICATION PROCEDURE.

- A) Pre-application Conference. Any person or company intending to apply the placement or operation of a cellular or wireless communications antenna, tower, or site within the City of Mason shall first schedule a pre-application conference with the City Engineer or his or her assignee. At this conference, the prospective applicant must present to the City Engineer any proposed locations for the equipment or site. This information should identify the area within

which the tower may be located, the minimum height of the proposed tower, and identify any possible users that may co-locate at the site. The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods, discuss possibilities of co-location, and identify alternative suitable sites that may minimize the negative impact on residential areas.

- B) **Formal Application.** Upon completion of the pre-application conference, an application may be filed with the office of the City Engineer according to the procedures set forth in Section 1135.5. The application shall be in compliance with the requirements of this Chapter and in such form as approved by the City Engineer. If the application does not conform with requirements of this Chapter, the applicant shall be notified by the City Engineer, and no further consideration of the application shall occur until it is in compliance with the terms of this Chapter.
- C) **Review Fees.** Each applicant shall pay, prior to the issuance of a permit, any reasonable cost the City has incurred in obtaining independent expert consultations that the City determines are necessary to review the application and advise the City, not to exceed one thousand dollars (\$1,000.00). Such fees are in addition to the normal application fees incurred during the formal application process described in subsection B) above.

### 1188.3 STANDARDS OF APPROVAL.

The following standards for approval shall apply to all cellular or wireless communications antennas and towers:

- A) **Justification of Location.** The cellular or wireless communications company shall demonstrate, using the latest technological evidence, that the antenna or tower must be placed in a proposed location to serve its necessary function in the company's grid system. Part of this demonstration shall include a drawing showing the boundaries of the area around the proposed location which would probably also permit the antenna to function properly in the company's grid system.
- 1) The applicant shall provide to the City all engineering studies which the applicant has completed, or intends to complete, to establish the necessity of placing an antenna within the City of Mason.
  - 2) The applicant shall provide a map of all current locations of wireless communications antenna sites, and all future proposed wireless communications antenna sites, which will provide service under a license issued by the FCC to users located in the City of Mason,

unless this information is certified to be proprietary by the telecommunications company.

This map shall include (Ord. 99-132, passed October 11, 1999):

- a) The location of all existing wireless communications antennas and towers that provide service to users located in the City of Mason;
- b) All locations at which the applicant has secured the right to lease space for or has entered into a lease for installation of wireless communications antennas or towers, unless such information is deemed proprietary in nature;
- c) The geographic areas served by each tower location that provides service to users located within the City of Mason; and
- d) The geographic areas into which the provider must install an antenna or tower in order to provide service to users located within the City of Mason.

- B) Attempts to Use Existing Structures. If the communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within the area that would allow the antenna to function properly in the company's grid system to ask for permission to install the cellular communications antenna on those structures, and was denied for non-economic reasons, or that a clearly unreasonable economic demand was made by the owner, based on prevailing market values.

The City may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good-faith effort to mount the antenna on existing structures.

- C) Plan of Operation. The applicant shall provide the City with its plan of operation of the antenna structure, including:

- 1) The radio wave frequency range of the expected or intended usage;
- 2) The effective radiated power under peak operating conditions of each antenna on a proposed tower; and
- 3) The type of services the applicant expects or intends to provide to customers of the applicant through the signals received and transmitted by the antenna.

- D) Radiation Level Calculations. The applicant shall provide engineering calculations demonstrating anticipated levels of effective radiated power, and shall provide a study which demonstrates the mapping of radiation levels actually produced by all antennas on a tower under maximum operating conditions; such mappings showing radiation levels at ground level within eight hundred (800) feet of the tower. Said readings shall be taken at 45 degree intervals around the tower at every one hundred (100) feet from the tower (plus or minus 10 feet). Upon written request of any applicant, the City Engineer, in his or her discretion, can waive the requirements for measurements at particular intervals or distances from the tower, or may require different points of measurement if, in his or her opinion, it is unlikely that any person will be exposed at the location specified in this provision. The City Engineer's

decision shall be stated in writing with written justification for the decision. The approval or denial of any permit shall not be based on the radiation level calculations unless such radiation exceeds the standards established by the FCC. (Ord. 99-132, passed October 11, 1999)

- E) Justification of Antenna/Tower Height. The applicant shall demonstrate that the antenna/tower is no higher than necessary to function satisfactorily and to accommodate the co-location requirements as set out in subsection G) below. An antenna that is taller than the minimum necessary height may be approved if it would significantly increase the potential for co-location.
- F) Tower Safety. All cellular or wireless communications towers shall be fitted with anti-climbing devices, as approved by the manufacturers. Furthermore, the applicant shall demonstrate that the proposed cellular or wireless communications tower and its antenna are safe, and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris, electromagnetic fields or radio frequency interference. However, if a specific safety issue in question is determined to be regulated by either FCC regulations or applicable building code regulations, and the operation or construction is in compliance with such regulations, then this requirement for safety shall be deemed to have been met.

Subsequent to the installation of a cellular or wireless communications tower site, if it is determined by the City Council, upon presentation of proper and sufficient documentation and after a public hearing that the operation of a cellular or wireless communications tower is inherently dangerous, or is a demonstrable health hazard, the cellular or wireless communications tower site shall be declared to be a nuisance and all operations shall cease. The tower or antenna shall also be removed as provided under Section 1188.6. However, no order of removal shall be made if it is inconsistent with FCC regulations.

- G) Limiting the Number of Cellular or Wireless Communications Towers. In order to reduce the number of antenna support structures needed in the City in the future, the proposed cellular or wireless communications towers shall be required to accommodate other uses, including other cellular or wireless communications companies, and the local police, fire, and ambulance departments. The owner of the existing cellular or wireless communications tower may request reasonable compensation for the use of the tower. For the purposes of encouraging co-location of cellular or wireless antennas and other uses, cellular or wireless communications towers shall be designed, engineered, and constructed as follows, unless waived for good cause by the City Engineer, to minimize impact on adjoining property:
- 1) Towers less than seventy-five (75) feet tall shall be designed, engineered and constructed to support antennas installed by one or more cellular or wireless communications service users.
  - 2) Towers more than seventy-five (75) feet in height, but less than one hundred fifty (150) feet, shall be designed, engineered and constructed to support antennas installed

- by two or more wireless communications service users.
- 3) Towers one hundred fifty (150) feet in height or taller shall be designed, engineered and constructed to support antennas installed by three or more cellular or wireless communications service users.

As used in this subsection, the term “users” shall include the antennas of police, fire and ambulance departments. In addition, an applicant must demonstrate that the area acquired by lease or otherwise acquired for the use and construction of the cellular tower and accessory structures is sufficient in size to accommodate any additional structures that may be required if additional users are added to the tower.

- H) Licensing. The communications company must demonstrate to the City that it is licensed by the Federal Communication Commission (FCC). The owner of the tower must also annually provide to the City during the first week of January of each new year a list of all users of the tower, and each user shall provide the City with a copy of each user’s license with the FCC. No approval will be granted to any applicant unless proof of current FCC license for the proposed use of the tower is provided. (Ord. 99-132, passed October 11, 1999)

#### 1188.4 DEVELOPMENT STANDARDS.

The following development standards shall apply to cellular or wireless communications antennas and towers:

- A) Location.
  - 1) Every attempt shall be made to mount a cellular or wireless communications antenna to an existing structure, such as a communications tower (whether said tower is for cellular or wireless purposes or not), smoke stack, water tower, or other tall structure in any zoning district. Cellular or wireless communications antennas may only be placed on the top of buildings that are no less than thirty-five (35) feet in height, for so long as the structure or building remains. Cellular or wireless communications antenna mounted on existing structures may be approved according to Section 1135.4.
  - 2) If an existing structure is not available, every attempt shall be made to place cellular or wireless communications systems in I-1 and I-2 zoning districts. If a cellular or wireless communications company can demonstrate that there are no suitable sites under industry or engineering standards for its cellular or wireless communications sites within an I-1 or I-2 zoning district, the company may apply for a permit to place the tower or antenna in a B-3, B-4 or HT-1 district.



- 3) Micro antennas not exceeding five (5) feet in height may be placed on any existing building in any zoning district. Such micro antenna shall not be subject to the setback requirements of other cellular or wireless communications towers, provided it is placed on the roof of an existing building.
  - 4) All other uses accessory to the cellular or wireless communications antennas and towers, including, but not limited to, business offices, maintenance depots, and materials and vehicles storage, are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.
- B) **Setback.** The minimum distance between the base of a tower or any support structures, including guy wire anchors, shall be as follows:

Table 1188: Setbacks for Cellular or Wireless Comm. Towers and Support Structures  
(Ord. 99-132, passed October 11, 1999)

Minimum setback from	
Any property used for residential purposes or zoned for use as residential property	A distance equal to the height of the tower OR One hundred (100) feet (whichever is the greatest distance)
Adjacent non-residential property	Forty percent (40%) of the tower height; OR The minimum set-back in the adjacent zoning district; OR Fifty (50) feet (whichever is the greatest distance)
Any Right-of-Way adjacent to a B-4 District	A distance equal to the height of the tower OR One thousand (1000) feet (whichever is the greatest distance)
Any property adjacent to a B-4 District	A distance equal to the height of the tower OR One hundred (100) feet (whichever is the greatest distance)

- C) **Fencing.** A fence shall be required around the cellular or wireless communications tower and its support or accessory structure(s), unless the antenna is mounted on an existing structure. The fence shall be a minimum of ten (10) feet in height, and shall be erected to prevent access to non-authorized personnel.
- D) **Screen/Landscaping.** Screening/landscaping shall be required to completely screen, up to six (6) feet from ground level, the support structure(s) and any other ground-level equipment, in order to soften the appearance of the cellular or wireless communications site. The screening

may be comprised of any combination of existing vegetation, topography, walls, decorative fences, or other landscape features, provided they achieve one hundred percent (100%) opacity year-round. A wall or fence without natural vegetation is not an acceptable screen.

If the antenna is mounted on an existing structure and other equipment is housed inside an existing structure, additional landscaping shall not be required.

- E) **Parking.** If the cellular or wireless communications site is fully automated, adequate parking shall not be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Ordinance.
- F) **Appearance.** Cellular or wireless communications towers under two hundred (200) feet in height shall be painted silver or have a galvanized finish retained in order to reduce visual impact. Cellular or wireless communications towers shall meet all Federal Aviation Administration (FAA) regulations. No cellular or wireless communications towers may be artificially lighted, except when required by the FAA. Furthermore, no cellular or wireless communications tower or antenna and accessory buildings and structures shall contain any signage. All utility lines serving the towers shall be underground.

#### 1188.5 MAINTENANCE.

Any owner of property used as a cellular or wireless communications site, and any owner of a cellular or wireless communications antenna or tower, shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris. Any owner of a cellular or wireless communications tower shall be required to notify the City Engineer of its intent, in writing, within thirty (30) days of its cessation of business, its discontinuance of service, or transfer of ownership.

#### 1188.6 REMOVAL.

Any cellular or wireless communications tower or antenna that has discontinued its service for a period of six (6) continuous months or more is hereby determined to be a nuisance. A tower or

antenna declared to be a nuisance must be removed by the owner of the tower or antenna, and by the owner of the property on which the tower or antenna is located, along with all accessory structures related thereto. Discontinued shall mean that the structure has not been properly maintained, has been abandoned, has become obsolete, is unused, is no longer used for its original purpose, is no longer transmitting the same type of radio wave signals that it was originally designed to transmit, or has ceased the daily activities or operations which had occurred.

Whenever, upon inspection, it shall appear that a cellular or wireless communications tower has been abandoned or its use discontinued, the City Engineer or a designated representative shall notify, either by personal delivery or by certified mail, the owner of the property on which the tower is located that the tower must be taken down and removed. The City Engineer, or a designated representative, in addition to any other citations, notices, penalties or remedies provided by law or ordinance, is authorized to proceed in a manner consistent with and pursuant to Ohio R.C. 715.26 and 715.261 to maintain the public health, safety and welfare, and to recover costs as appropriate.

#### 1188.7 PROHIBITIONS.

- A) No cellular or wireless communications tower shall be permitted on any lot on which any non-conforming building or structure is located, nor on which any non-conforming use or activity is occurring without first obtaining a variance from the City Planning Commission.
- B) No cellular or wireless communications tower shall be constructed, replaced or altered without first obtaining the applicable building permit.
- C) A cellular or wireless communications antenna or communications site shall not be placed, operated, constructed or affixed, or otherwise located within the City of Mason, except as allowed and permitted by this Chapter.