

## Supplementary Provisions

**Section 2001. Exceptions, Additions and Modifications in All Districts.** The provisions of this ordinance are subject to the following exceptions, additions or modifications:

**a. Exceptions.** The provisions of this ordinance shall not apply to any existing or proposed building, structure, use or extension thereof used or to be used by public utility corporations if, upon petition of the corporation, the Public Utility Commission shall, after public hearing, decide that the present or proposed location of the building in question is reasonably necessary for the convenience and welfare of the public.

(Ordinance 559, June 20, 1959, Section 1201.7.)

**b. Prohibitions.**

(1) No habitable vehicles or house trailer shall be used in any district as a temporary or permanent dwelling or for any trade or occupation, whether its wheels have been removed or it has been placed on a foundation, except when located in a trailer park.

(2) The keeping of fowl or livestock, except on tracts of 10 acres or more, provided that housing and shelter is not closer than 200 feet to a property line of the tract. Exception: The keeping of chicken hens at 1-family homes is allowed pursuant to Section 501.1(7).

(3) Any process or assembly, manufacture or treatment constituting a nuisance by reason of odor, smoke, dust or noise and including, but not limited to, foundries, boiler works, smeltery plants; the manufacture or refining of asphalt, the manufacture or processing of cork, fertilizer, linoleum or oilcloth and glue or gelatin, the tanning and storage of raw hides and skins, abattoirs or slaughterhouses, and the manufacture of paint, oil and varnishes. This, however, shall not apply to exclude an industry, whether or not specifically mentioned, if such industry, after supplying satisfactory evidence to the Zoning Hearing Board, is certified by the Board to be free of the nuisance characteristics typical of its kind, by reason of special design of structure or innovation, in processes or like circumstances.

(4) The process or assembly, manufacture or treatment constituting an unusually hazardous use and including, but not limited to, such things as the manufacture of bulk storage or explosives and the manufacture or storage of illuminating gas or other explosives or poisonous gases, except as may be necessary and incidental to a permitted industrial process.

(5) The storage of crude oil or any of its volatile products or other inflammable liquids in aboveground tanks with capacity greater than 550 gallons, unless such tanks (up to and including 10,000-gallon capacity) are placed not less than 50 feet from all property lines; unless such tanks of more than 10,000-gallon capacity are placed not less than 100 feet from all property

lines and are properly diked to provide a pooling capacity equal to 1½ times the capacity of the tank or tanks surrounded.

(6) Junk yards (except for vehicle holding areas in the M districts), automobile wrecking yards; the storage, baling or treatment of junk, scrap, iron, rags, bottles and scrap paper; and the storage of second-hand lumber and other building materials for resale (except in established lumber or building material yards).

(Ordinance 559, June 20, 1959, Section 1201.10, as amended by Ordinance 973, April 21, 1980, and by Ordinance 1913, December 1, 2008, Section 1.)

(7) Within utility easements, other than public utility structures, there shall be no structures, including fences nor any planting, other than grass or similar ground cover, nor any other obstruction above or below the surface of the land. This provision shall apply and shall be controlling in the event of a conflict with setbacks otherwise provided for herein. (Ordinance 940, August 9, 1978, Section 4.)

(8) The operation of any business which has, as a substantial or a significant portion of its stock-in-trade obscene materials, as defined in the State Obscenity Code.

Advertisements, displays or other promotional materials of specified sexual activities or specified anatomical areas, as herein defined, shall not be shown or exhibited so as to be visible to the public from the exterior of the building.

(Ordinance 1056, August 3, 1983, Section 5.)

**c. Refuse Collection.** All uses generating refuse must be served by refuse containers of adequate capacity in locations agreeable to the Borough of State College, as specified below. Existing properties without such containers are exempt from providing on-site areas for their storage as long as such properties are adequately served by other off-site refuse containers. On such existing properties, any space of adequate location and size, which could be used for future placement of a container, shall be reserved for such purpose.

(1) No building shall be hereafter constructed without providing locations on-site for adequate storage of all refuse produced on the site by the occupants, except as provided for in Subsection (3) below. No building or use may be expanded without provision for adequate on-site refuse containers or, if such space is unavailable at the time of enactment of this amendment, without agreement for off-site refuse storage as specified in Subsection (3) below.

(2) The location of the on-site refuse storage area shall be shown on the zoning permit application or site plan as part of the application for zoning approval. Placement of refuse containers shall be at a location acceptable to the Borough. In determining the size, number and location of refuse containers to be used, the following criteria shall apply:

(a) Size. The refuse containers and their sites shall be of a capacity determined by the Borough, which is adequate to contain all refuse generated by all of its users without requiring removal at times other than those regularly scheduled for the collection district in which the site is located.

(b) Location. The location of refuse containers shall be compatible with the Borough refuse pickup system serving the property. When dumpsters or other bulk refuse containers are used, such shall be placed in a location which provides access to the containers by the appropriate refuse collection vehicle. All such containers shall be located in areas which provide for the safe operation of refuse collection vehicles. Where deemed necessary by the Borough, adequate vehicle turn-around areas shall be provided on the site and, to the greatest extent possible, refuse containers shall be located to minimize the need for backing movements by said vehicle.

(3) Two or more property owners may consolidate their refuse storage at a common site, provided the size and location of the site complies with all relevant provisions of this Section and other applicable Borough regulations. Said property owners shall enter into a legal Agreement specifying such site as their common refuse storage area in a manner and form acceptable to and recorded with the Recorder of Deeds, Centre County, Pennsylvania. A copy of the Agreement must be submitted to and approved by the Borough prior to recording.

(Ordinance 1058, September 14, 1983, Section 2, as amended by Ordinance 1198, February 8, 1988, Section 22.)

**d. Residency Or Occupancy.** A resident or occupant of a dwelling unit shall have the right to invite to his dwelling unit such guests as he wishes, including overnight guests. However, it shall constitute a violation of this ordinance<sup>290</sup> if such overnight guest(s) so frequently remains in such unit overnight as to increase, for a majority of the nights during any consecutive period of 10 days, the number of persons beyond the maximum permitted to reside in or occupy that dwelling unit under the provisions of this ordinance. It shall be the duty of the owner, landlord, rental agent, Realtor and property manager of any dwelling unit to make the maximum residency or occupancy under the zoning ordinance known to tenants, in writing, on or before the time of leasing (or renting), and it shall be also the responsibility of occupants, residents and tenants to ascertain the maximum occupancy under this zoning ordinance. (Ordinance 1073, April 11, 1984, Section 4.)

**e. Telecommunications Facility.**

(1) **Purpose and Intent.** These telecommunications regulations are intended to achieve the following:

- (a) to provide a competitive and wide range of telecommunications services while minimizing the impacts of the telecommunications infrastructure in populated areas;
- (b) to encourage and maximize the shared use of existing telecommunication towers, buildings and structures; and
- (c) to ensure that new towers will be safe, placed in suitable locations, and blend into the environment where located.

(2) Telecommunications towers are permitted in the following zoning districts:

- (a) General Commercial
- (b) Planned Industrial
- (c) Commercial Incentive District (CID)

(3) **Lot Area, Width and Yards.**

(a) **Minimum Lot, Lease Area, and/ or License Area Size of Telecommunications Facilities.** No minimum lot, lease area, and/or license area size is required for a telecommunications facility; however, as required in the applicable zoning district and Section 3(b) below, the setbacks of the parent tract perimeter boundaries shall apply.

(b) **Minimum Setback of Telecommunications Towers.** As required in the applicable zoning district, except for the following: No telecommunications tower shall be located closer than 200 feet or 110 percent of the proposed telecommunications tower height, whichever is greater, from any existing property line of any lot containing a residential use regardless of the zoning district in which the tower and associated buildings are located.

(4) **Height.** The maximum height of telecommunications towers shall not exceed the following:

(a) 150 feet, measured from the average natural grade of the approved facility area to the top point of the tower or antenna, whichever is greater, except for locations above elevation 1,400 feet as shown on the appropriate U.S. Geological Survey Topographic Quadrangle mapping, in which case, the maximum height shall be 50 feet or the average height of the trees, measured from the average natural grade of the approved facility area to the top point of the tower or antenna, whichever is greater. In addition, the tower and/or antenna must be

of a concealed, camouflaged or “stealth” design that blends into the natural environment so as not to be seen or recognized. This includes “tree” poles, or architecturally-screened antenna that can be attached to existing structures other than towers. Lighting shall be prohibited from these concealed towers and/or antennas.

(b) **Conditional Use.** Borough Council may grant a conditional use permit to increase the height of a tower to 200 feet, subject to the following conditions:

(i) that the applicant provides evidence that the need for the tower cannot be met by a tower 150 feet or less in height or through co-location on an existing tower or structure;

(ii) that setbacks will equal or exceed 110 percent of the height of the tower; and

(iii) that the applicant provides evidence that the grant of the conditional use will reduce the number of towers needed to provide service area coverage;

(5) **Evidence of Need for Towers.** The applicant for the placement of a telecommunications tower shall submit to the Borough of State College evidence of the need for the telecommunications tower in the proposed location and that the applicant has exhausted all alternatives to locate on an existing tower or structure.

In addition, the applicant must demonstrate, via written evidence from a qualified, licensed and professional engineer, that, in terms of location and construction, there are not existing towers, telecommunications towers, buildings, structures, elevated tanks or similar structures able to provide the platform for the telecommunications antenna within a 1-mile radius of the chosen location. Co-location is not possible if:

(a) Coverage diagrams and technical reports demonstrate that co-location on existing telecommunications towers is not technically possible in order to serve the need; and

(b) Planned equipment would exceed the structural capacity of existing telecommunications towers within the Municipality, considering existing and planned use of those telecommunications towers, and existing telecommunications towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost; or

(c) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for that telecommunications tower, and the interference cannot be prevented at a reasonable cost; or

(d) Existing or approved telecommunications towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned; or

(e) Other reasons make it impractical to place the equipment planned by the applicant on existing and approved telecommunications towers.

(6) **Telecommunications Antennas (Shared Use)**. Telecommunications antennas may be attached to any building or structure in all zoning districts including, but not limited to, a church, a municipal or governmental building or facility, an agricultural building, a building owned by a utility, telecommunications tower, water tank, and major electrical transmission lines. Pursuant to the following:

(a) Antennas shall not be permitted on single-family homes, townhomes and duplexes;

(b) Building and zoning permits shall be required; and

(c) Antennas shall be no taller than 15 feet above the existing structure.

(7) **Design and Construction**.

(a) Any proposed telecommunications tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least 2 additional users if the tower is over 100 feet in height, or for at least 1 additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(b) The telecommunications tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-F manual, as amended, or applicable successor regulations.

(c) A soil report complying with the standards of Appendix I, Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, or applicable successor regulations, shall be submitted to the Municipality to document and verify design specifications of the foundation for the telecommunications tower, and anchors for the guy wires if used.

(d) Telecommunications towers shall be designed and constructed to withstand wind gusts of at least 100 miles-per-hour.

(e) A telecommunications tower may not be located on a lot that contains a structure that is listed on or eligible for listing on a historic register or in an officially designated state or federal historic district.

(f) The applicant shall present documentation that the telecommunications tower is designed in accordance with all applicable state and federal regulations.

(g) Guy wires, if utilized, must be anchored no closer than 25 feet from any property line. Guy wires shall not cross or encroach on any utility rights-of-way.

(h) The applicant shall provide, upon request, a statement from a qualified, licensed and professional engineer that the NIER (Non-Ionizing Electromagnetic Radiation) emitted from the telecommunications tower, when measured in conjunction with the emissions from all communication facilities on the tower, does not result in an exposure at any point on or outside such facility which exceeds the lowest applicable exposure standards established by the Federal Communications Commission (FCC) or the American National Standards Institute (ANSI).

(i) Except as required by the Federal Aviation Administration, no telecommunications tower may use artificial lighting or strobe lighting at night.

(j) All generators or other power supplies shall be fully enclosed within a building. Emergency power supply sources may not operate for more than 24 consecutive hours. No telecommunications facility may produce noise in excess of that permitted under the provisions of the State College Noise Ordinance, Chapter V, Sections 101 through 108 of this codification.

(k) All federal, state and municipal environmental regulations regarding the placement of telecommunications facilities must be followed in the design, review, and construction processes.

(l) Telecommunications facilities shall be fully automated and unattended on a daily basis. The site shall be visited only for necessary maintenance.

(8) **Fencing and Screening of Facilities.**

(a) A security fence (including security wiring) of approved design of not less than 8 feet, and no greater than 10 feet shall completely enclose the telecommunications facility. A fence of not less than 8 feet and not greater than 10 feet shall also completely enclose the anchored locations of guy wires, if used.

(b) The applicant shall submit a landscaping plan. Sites in which telecommunications towers are located shall be required to comply with the following landscaping requirements:

(i) Landscaping and planting shall be provided for a minimum depth of 15 feet along all public rights-of-way abutting the lot where the telecommunications tower is located. COD (Corridor Overlay District) requirements shall take precedence over the 15-foot minimum landscaping requirement if a telecommunications facility is located within a COD.

(ii) Landscaping, consisting of sight obscuring trees and shrubs in accordance with the Buffer Yard C requirements, as specified in Section 1927.b(6) of this Chapter, shall be required at the perimeter of the security fences and the telecommunications facility. Existing wooded areas, tree lines and hedgerows adjacent to the facility shall be preserved and used to substitute or meet a portion of the buffer yard requirements.

(9) **Access and Parking.**

(a) The applicant must demonstrate on the land development plan that parked vehicles at the facility will not impede traffic on the adjoining cartways.

(b) Internal access to the telecommunications tower shall be provided by a minimum 12-foot width cartway with a durable and mud-free surface, such as concrete or a bituminous concrete surface, for a minimum of 50 feet from any public or private street. The length of the cartway beyond this 50 feet shall, at a minimum, be surfaced with a durable and mud-free gravel surface. The vehicular access to the telecommunications tower and telecommunications facility building shall meet the applicable municipal street standards for private streets and/or driveways.

(10) **Notification of Municipality and Termination of Operations.**

(a) **Notification.** The operator of any telecommunications facility shall notify the Borough of State College annually of the operational status of all telecommunications facilities located within the Borough of State College. This notification shall be in writing, sent to the attention of the State College Zoning Officer, and contain the following information:

(i) certification that the facility is in operation; and

(ii) information indicating that the approved telecommunications tower or Antenna remains structurally sound and is in compliance with all applicable FCC, or successor agency, regulations. The applicant shall bear the costs of any inspection necessary to determine the structural soundness of a telecommunication tower or antenna.

(b) **Termination of Operations.** Telecommunications facilities that been inoperative for 12 or more consecutive months shall be determined to have terminated operation and must be removed at the expense of the facility and/or property owners within 90 days following notification by the Zoning Officer of such termination.

(11) **Nonconforming Structures and Use and Structures.** Legal pre-existing towers and antennas will not be required to meet the following requirements unless specifically indicated.

(Ordinance 1549, November 19, 1997, Section 8. and by Ordinance 1821, November 9, 2005, Section 10.)

### **Section 2002. Temporary Use Provision for Fraternities**

Any building that is legally being used as a fraternity house and such building is located in a zoning district where rooming house is not a permitted use or is located in the ROA zoning district, may be used as a rooming house on a temporary basis up to a maximum of two years subject to all of the following criteria and standards:

(1) The building's ownership entity has closed the fraternity house because of disciplinary or behavioral problems caused by house members and the fraternity's alumni corporation intends to re-colonize the fraternity house within two years following the date of closure.

(2) The building has an uninterrupted history of being used as a fraternity house for a period of at least 5 years preceding the temporary use application.

(3) A zoning permit authorizing the temporary use of the property as a rooming house is obtained. The application shall be authorized by the fraternity's alumni corporation and must be approved by the building's ownership entity when different from the alumni corporation.

(4) The zoning permit must be applied for within 120 days of the building's closure. Thereafter, eligibility for the temporary use permit is lost.

(5) The maximum time that the building may be used as a rooming house shall be two years. The time period shall commence on the date that the temporary use permit is issued.

(6) The building must be vacant at the time when the zoning permit is issued. Once closed no residents, except for a single resident caretaker, may occupy the building until the building is duly licensed as a temporary rooming house or its status as a fraternity house is resumed or it is otherwise changed to a legal land use in the zoning district.

(7) Once converted to a rooming house, the building ownership entity shall retain oversight in managing the property and shall appoint one or more persons, who is not a college or university student (either graduate or undergraduate), to be a resident manager in charge of the rooming house. Such person or persons shall reside within the building and shall be readily available to address any problems at the premises.

(8) Rooming house residency shall be contingent upon the terms of a lease with the building ownership entity entered into individually by all tenants. The term of such lease shall not exceed the duration of the temporary use permit. A copy of the lease shall be made available to the Borough of State College upon request.

(9) Once converted to a rooming house, should offenses occur that result in the property being identified as a "Problem Property" under the permit suspension provisions within Section 806 of the Centre Region Building Safety and Property Maintenance Code (most current edition as adopted by the Borough), the temporary use permit shall be revoked and immediate steps shall be taken by the building ownership entity to have the building vacated and closed. Continued residential occupancy of the building as a rooming house shall constitute a zoning violation. (The term "Problem Property" is used in the Centre Region Building Safety and Property Maintenance Code to describe a rental property that has accumulated 5 or more points within a 1-year period.)

(10) The number of persons allowed to reside in a rooming house under this temporary use provision, including those in the ROA district, shall not exceed the maximum number of persons that legally resided in-the fraternity house at any given time during the 5 year period immediately preceding the date of the temporary use application. Such occupancy is further contingent upon compliance with applicable building, property maintenance, and fire codes. (Occupancy of a building in the ROA district operating as a rooming house under this temporary use provision is not bound to the five person limit established in Section 1152 of the zoning ordinance, and defaults to the above mentioned standards.)

(11) Under this temporary use provision, existing parking at the fraternity house shall be deemed sufficient in number and standard to satisfy off-street parking required for the temporary use. Existing parking spaces shall be used exclusively as an accessory use to the rooming house. Renting parking spaces or otherwise providing them to non-resident users, except for short-term parking by house visitors, is expressly prohibited.

(12) A building shall only be eligible for a temporary use permit once every 5 years. The five-year period shall commence upon expiration of the preceding temporary use permit.

(Ordinance 1961, February 7, 2011, Section 2.)