

**Article 1900
Wireless Telecommunication Tower Regulations**

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1901 PURPOSE.

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 Township 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 Township in regulating wireless communication towers and related facilities for 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 Township;
- c. To maintain the aesthetic appearance of the Township;
- d. To provide for and protect the health, safety, morals, and general welfare of the residents of the Township;
- e. To protect residential properties, parks, open spaces, and the non-intensive commercial zoning districts which are characteristic of the Township from the adverse effects of towers and related facilities;
- f. To promote co-location of wireless telecommunication facilities in order to decrease the number of towers in the Township; and
- g. To maintain, where possible, the integrity of the existing zoning regulations contained in the Zoning Resolution.

1902 DEFINITIONS.

- 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. 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.
- e. Wireless telecommunications antenna: The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
- f. 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.
- g. 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.

1903 PERMITTED LOCATIONS.

A wireless telecommunication tower and facility may be located in the following areas.

- a. First priority: New wireless antennas may co-locate on existing towers or on existing structures which have been constructed for other purposes, such as but not limited to water towers, church steeples, chimneys, or cooling towers.
- b. Second priority: A wireless telecommunication tower and/or antenna facility may be located in an M-U Mixed Use District, GB-1 General Business, or LI Light Industrial District as set forth on the Zoning Map.
- c. Third priority: A wireless telecommunication tower and/or antenna facility may be located within a recorded electric high tension power line, easement, or adjacent to and within 100 feet of such and easement, as indicated on the Zoning Map.

1904 LOCATIONS REQUIRING VARIANCE APPROVAL.

Areas requiring a variance approval are Residential Districts (R-AG, R1, R2, RMF-1, and R-MHP). Refer to ORC 519.211 (ref: 147 v S 132 [Eff 9-30-98]), “Limitations on zoning power; telecommunications towers”, as excerpted below:

(A) Except as otherwise provided in division (B) or (C) of this section, sections 519.02 to 519.25 of the Revised Code confer no power on any board of township trustees or board of zoning appeals in respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business.

(B)(1) As used in this division, “telecommunication tower” means any free-standing structure, or any structure to be attached to a building or other structure, that meets all of the following criteria:

(a) The free-standing or attached structure is proposed to be constructed on or after October 31, 1996.

(b) The free-standing or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunications services.

(c) The free-standing or attached structure is proposed to be located in an unincorporated area of a township, in an area zoned for residential use.

(d)(i) The free-standing structure is proposed to top at a height that is greater than either the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulation, or the maximum allowable height of such a free-standing structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.

(ii) The attached structure is proposed to top at a height that is greater than either the height of the building or other structure to which it is to be attached, or the maximum allowable height of such an attached structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.

(e) The free-standing or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.

(B)(2) Sections 519.02 to 519.25 of the Revised Code confer power on a board of township trustees or board of zoning appeals with respect to the location, erection, construction, reconstruction, change, alteration, removal, or enlargement of a

telecommunications tower, but not with respect to the maintenance or use of such a tower or any change or alteration that would not substantially increase the tower's height. However, the power so conferred shall apply to a particular telecommunications tower only upon the provision of a notice, in accordance with division (B)(4)(a) of this section, to the person proposing to construct the tower.

(B)(3) Any person who plans to construct a telecommunications tower in an area subject to township zoning regulations shall provide both of the following by certified mail:

(a) Written notice to each owner of property, as shown on the county auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed, stating all of the following in clear and concise language:

(i) The person's intent to construct the tower;

(ii) A description of the property sufficient to identify the proposed location;

(iii) That, no later than fifteen (15) days after the date of mailing of the notice, any such property owner may give written notice to the board of township trustees requesting that sections 519.02 to 519.25 of the Revised Code apply to the proposed location of the tower as provided under division (B)(4)(a) of this section.

If the notice to a property owner is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery of the notice does not invalidate the notice.

(b) Written notice to the board of township trustees of the information specified in divisions (B)(3)(a)(i) and (ii) of this section. The notice to the board also shall include verification that the person has complied with division (B)(3)(a) of this section.

(B)(4)(a) If the board of township trustees receives notice from a property owner under division (B)(3)(a)(iii) of this section within the time specified in that division or if a board member makes an objection to the proposed location of the telecommunications tower within fifteen (15) days after the date of mailing of the notice sent under division (B)(3)(b) of this section, the board shall request that the Fiscal Officer of the township send the person proposing to construct the tower written notice that the tower is subject to the power conferred by and in accordance with division (B)(2) of this section. The notice shall be sent no later than five (5) days after the earlier of the date the board first receives such a notice from a property owner or the date upon which a board member makes an objection. Upon the date of mailing of the notice to the person, sections 519.02 to 519.25 of the Revised code shall apply to the tower.

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(b) If the board of township trustees receives no notice under division (B)(3)(a)(iii) of this section within the time prescribed by that division or no board member has an objection as provided under division (B)(4)(a) of this section within the time prescribed by that division, division (A) of this section shall apply to the tower without exception.

Note: Subsections (C), (D), and (E) are not pertinent to telecommunications towers.

(F)(1) Any person who plans to construct a telecommunications tower within one hundred (100) feet of a residential dwelling shall provide a written notice to the owner of the residential dwelling and to the person occupying the residence, if that person is not the owner of the residence stating in clear and concise language the person's intent to construct the tower and a description of the property sufficient to identify the proposed location. The notice shall be sent by certified mail. If the notice is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery does not invalidate the notice.

(F)(2) As used in division (F) of this section:

(a) "Residential dwelling" means a building used or intended to be used as a personal residence by the owner, part-time owner, or lessee of the building, or any person authorized by such a person to use the building as a personal residence;

(b) "Telecommunications tower" has the same meaning as in division (B)(1) of this section, except that the proposed location of the free-standing or attached structure may be an area other than an unincorporated area of a township, in an area zoned for residential use.

