

## Delaware County Regional Planning Commission Summary of cell phone tower model language in Delaware County (ORC 519.211)

### ***The following is an extreme summary of the main points often asked:***

- Any person who wishes to construct a tower in an area under township zoning must notify contiguous and across-the-street property owners.
- Those persons who receive notification must file a written objection to the trustees no later than 15 days after the original notice is mailed.
- If the tower is located on land not zoned exclusively residential, the objection does not really matter, since zoning does not apply.
- If the tower is proposed on land zoned exclusively residential, the applicant shall then go through the Conditional Use procedure as defined by the BZA.
- If the township's agricultural district(s) allow residential, they may count as residential-zoned land.

### ***The following is a summary of the "model" Telecommunication Tower Code for many townships in Delaware County. Detail has been removed and bolding added to improve readability.***

Public utilities or other functionally equivalent telecommunications providers may site a tower **in any zoning district except those expressly zoned for residential use.**

The local zoning authority shall apply to a particular tower, only upon provision of a written notice of objection to that particular tower.

- A.) **Towers Proposed within Areas Zoned for Residential Use** - Towers may be regulated in areas zoned for residential use upon receipt of an **objection**.
- 1.) **Notice** - Notice shall comply with ORC 519.211 (B)(3). *(Any person who plans to construct a tower in an area **subject to zoning** shall provide by CERTIFIED MAIL: written notice to each property owner whose land is contiguous to or directly across a street from the property on which the tower is proposed to be located. Notice must include intent of the person to construct the tower, a description of the property, and a notice that **no later than fifteen days** after the date of mailing of the notice, any such property owner may give written notice to the trustees that the zoning regulations be applied.)*
  - 2.) **Procedure if Objections Are Filed:** Upon the receipt of an objection by the Trustees, the Trustees shall request that the fiscal officer shall notify the applicant within 5 days that the zoning regulations apply.
  - 3.) **Procedure if No Objections Are Filed** - Telecommunications towers shall be permitted as a use exempt from any local zoning authority **in residential zoned areas if no objections** are timely filed as provided.
- B.) **Local Zoning Authority** - If objections are filed for a proposed tower in a district **zoned for residential use** then the tower shall only be permitted as a **conditional use by the Board of Zoning Appeals**, provided that all of the following conditions of this section are met.
- 1.) **Conditional Use - Application and Requirements** – An application for conditional use shall be filed with the Board of Zoning Appeals. The application shall include:
    - a.) A locator map which shall contain the following:
      - i.) The location of all the applicant's existing facilities within (1) mile of the proposed tower.
      - ii.) The general location of planned future facilities within (1) mile of the proposed tower.
      - iii.) For each location of the existing facilities within (1) mile of the proposed tower, list:

- the type and size, the type of equipment, the space available for additional equipment a site plan depicting any parcels on which any existing or proposed tower is/will be.

b.) A site plan:

- i.) the location, type and size of existing and proposed towers;
- ii.) existing and proposed buildings and structures, drives, circulation and parking;
- iii.) landscape screening plan and related design standards;
- iv.) land uses, structures and zoning district, adjacent uses, structures and zoning districts;
- v.) setbacks from property lines and dwellings within 600 feet of the proposed tower;
- vi.) legal description of the lot on which the tower is to be sited;
- viii.) any other information necessary to assess compliance with this section; and
- ix.) any illumination required by the FAA or FCC.

c.) A written certification from a Professional Engineer stipulating:

- i.) that the tower's design is structurally sound and in compliance with all codes;
- ii.) that the equipment on the tower and at the site complies with all current FCC regulations;
- iii.) that the tower will accommodate co-location of additional antennas for future use, with a statement as to the number of antennas capable of being accommodated or an explanation as to why the tower will not be constructed to accommodate co-location; and
- iv.) height and fall zone drawing.

2.) **Conditional Use Procedure by Board of Zoning appeals on Receipt of Application** - Consistent with the zoning code, the BZA shall provide notice of, conduct a public hearing and render a decision on the conditional use requested in the application.

3.) **General Requirements for all Telecommunications Towers in Residential Zones**

- i.) The applicant or tower provider shall demonstrate that the proposed tower location in a residential area is **essential** to service the applicant's service area and that there are **no alternative sites in commercial**, industrial or exclusively agricultural areas. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall structures" shall include smoke stacks, water towers, electric transmission towers, existing antenna support structures or other telecommunications towers, utility buildings and structures over 48 feet in height.
- ii.) Maintenance: Towers and related structures must be maintained in good working order.
- iii.) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued.

4.) **Development Standards for all Telecommunications Towers in Residential Districts.**

a.) No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.

b.) The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be 100 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:

- i.) Towers proposed for and designed to support the co-location of a total of two antenna facilities – 115 feet;

- ii.) Towers proposed for and designed to support the co-location of a total of three antenna facilities – 130 feet; and
  - iii.) Towers proposed for and designed to support the co-location of four or more antenna facilities – 145 feet.
- c.) Clear Fall Zone: Tower height shall be the distance measured from the base of the tower, at grade, to the highest point on the tower, including any antenna. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.
- i.) The tower base shall not be placed closer than the height of the tower plus forty feet from a unit on a lot contiguous to or directly across the street from the tower's lot.
  - ii.) A tower base shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than 50 feet.
  - iii.) The tower base shall be located no closer to a street right-of-way.
- d.) Ancillary Requirements:
- i.) Reasonable and safe access and circulation shall be provided to the tower.
  - ii.) Security fencing shall be provided to prevent uncontrolled access to the tower site.
  - iii.) The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment.
  - iv.) The tower shall be of a monopole design.
  - v.) No advertising is permitted anywhere on the tower.
  - vi.) Where located on property not owned by the operator, the applicant shall present documentation that the owner of the property has approved the application
  - vii.) The applicant shall submit a signed statement indicating that he/she agrees to allow for the potential co-location of other antenna facilities to the extent possible.
  - viii.) An antenna may be attached to a nonresidential building permitted in the district as long as it meets the other requirements within this code.
  - ix.) Any structures for equipment shelter shall be shown on the site plan and be architecturally compatible with the surrounding area.

**Towers on Township Property** - With the prior consent of the township trustees obtained through resolution, a tower may be sited on township owned property **not zoned for residential use**.

With the prior consent of the township trustees obtained through resolution, a tower may be located on township owned property **zoned for residential use** after obtaining a conditional use permit.