

## ARTICLE 22: UTILITIES

### Section 2201: Intent and Purpose

In order to protect health, safety, and welfare, all applicable utilities shall conform to the standards and provisions within this Article unless otherwise exempted, protected, and/or otherwise regulated by Section 102 of this Zoning Resolution.

### Section 2202: General Standards

- 2202.01 Planned Developments shall have an adequate source of potable water. All water lines constructed within a Planned Development shall be the financial responsibility of the owner or developer.
- 2202.02 No construction of Buildings within any segment of a Planned Development shall be commenced until after the extension of sanitary sewage lines or approved sanitary treatment facilities required with alternative sewage disposal systems have been completed.
- 2202.03 The following utility equipment shall be provided, constructed, and installed underground within a Planned Development: gas lines, sanitary and storm sewer lines, water lines, electrical lines, telephone lines, and cable television lines.
- 2202.04 All utility systems shall be located and designed in such a manner and method as to preserve the natural features of the land such as streams, rock outcropping, topsoil, trees and shrubs and the same shall be incorporated into and with the Landscaping of said lands.
- 2202.05 Easements across Lots or centered on Rear or Side Lot Lines shall be provided for utilities where necessary and shall be of adequate width to facilitate the proposed usage.

### Section 2203: Aerial Antennas and Satellite Dish Antennas

- 2203.01 The purpose of this section is to minimize the adverse visual effects of antenna and satellite devices through design and Landscaping standards. It protects properties that are adjacent and within the general vicinity from the potential damage of antenna failure and falling ice and debris. Telecommunication towers, as defined in Ohio Revised Code Section 519.211, shall be regulated pursuant to the provisions of Section 2204 of this Resolution.
- 2203.02 Antennas and Aerial Antennas. Aerial Antennas not otherwise regulated as a Telecommunication Tower in Section 2204, shall comply with the following requirements:
- A) All antennas which are thirty-six (36) inches or less in height or completely within a Building or Structure shall not require a Zoning Permit prior to installation in any Zoning District. The measurement of an antenna's height shall include any mounting to which it is affixed.
  - B) All antennas exceeding thirty-six (36) inches in height, or not otherwise exempt, shall require a Zoning Permit prior to installation in any Zoning District and shall comply with the following:
    - 1) Installations shall only be permitted to:
      - a) the rear of a Primary Structure; or
      - b) attached to the side or top of a Primary Structure.
    - 2) No antenna requiring a Zoning Permit shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line less ten percent (10%) of the height of the antenna, unless the design of the antenna foundation and guying system have been designed by, and the plans and computations imprinted with the seal of, a Professional Engineer registered to practice in the State of Ohio, and these plans and computations are placed on file with the Zoning Inspector.
    - 3) In no instance shall an antenna be erected within a required minimum Setback.

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- 2203.03 Satellite Dish Antenna. Installation of Satellite Dish Antennas not otherwise regulated as a Telecommunication Tower in Section 2204 shall comply with the following:
- A) No Zoning Permit for installation of a disk or dish shall be required for dish measuring 39.37" (one (1) meter) in diameter or less. A Zoning Permit shall be required for any dishes greater than 39.37" (one (1) meter) in diameter.
  - B) No installation shall be made forward of the Front Building Line of the Primary Structure.
  - C) No installation shall be placed closer than twenty (20) feet to any Lot Line.
  - D) No disk or dish having a diameter of greater than 39.37" (one (1) meter) shall be located on the roof of any residential Structure or Accessory Building on a Lot within a Residential or Planned Residential Zoning District.
  - E) The top of the disk or dish shall stand no more than twelve (12) feet above ground level or a finished grade elevation.
  - F) No disk or dish having a diameter of greater than 39.37" (one (1) meter) shall be installed on the roof or other mounting more than six (6) feet above ground level or finished grade elevation in a Non-Residential Zoning District unless the mounting of the same is designed to withstand a wind force of eighty-five (85) miles per hour and a certificate is furnished to the Zoning Inspector, signed by a licensed and qualified engineer, that the installation conforms with said restriction.
  - G) No disk or dish shall be permitted which exceeds twelve (12) feet in diameter unless the same is specifically approved as part of a Planned Development.
- 2203.04 Should any provisions within this section conflict with ORC 5502.031, the Federal Communications Act of 1996, Federal Communications Commission regulations, or any other similar rules or regulations, said laws and/or agencies shall control.

**Section 2204: Telecommunications Towers**

- 2204.01 Public utilities or other functionally equivalent providers may site a telecommunications tower as a permitted Use in Non-Residential Zoning Districts. Local zoning authority shall not extend to the regulation of maintenance or use of such a tower or to any change or Alteration that would not substantially increase the tower's height. Local zoning authority over proposed telecommunications towers shall apply only to a tower, only upon provision of a notice of objection to that particular tower. No blanket zoning authority exists over telecommunication towers in Residential or Planned Residential Districts unless and until a written objection has been timely filed.
- 2204.02 Telecommunication towers may be regulated in areas zoned for residential Use, those areas being classified by this Resolution as Residential and Planned Residential Zoning Districts, upon receipt of an objection pursuant to ORC 519.211(B)(2). The provisions of this Resolution concerning telecommunication towers are not intended to replace or modify ORC 519.211, but instead are intended to incorporate ORC 519.211 and its terms into this Resolution. Any notice of an objection shall comply with the provisions of ORC 519.211(B)(3). Upon timely receipt by the Township Trustees of an objection to a proposed telecommunication tower, the Trustees shall proceed as provided in ORC 519.211(B)(4)(a). Telecommunication 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 in ORC 519.211(B)(4)(b). If objections are timely filed consistent with ORC 519.211(B) for a proposed telecommunications tower in a District zoned for residential Use then the telecommunications may 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. An application for Conditional Use shall be filed with the Board of Zoning Appeals.
- A) Conditional Use Application Requirements. In addition to the requirements of Section 302, the application shall include:

- 1) A preliminary development plan must be submitted at the time the application for the Conditional Use Permit is submitted. The preliminary development plan shall contain the following:
  - a) The location of all the applicant's existing facilities both within the Township and within one (1) mile of the proposed site.
  - b) The general location of planned future facilities, if known.
  - c) For each location shown on the plan, there shall be listed:
    - i) The type and size of tower at each location;
    - ii) The type of equipment located or proposed on each tower;
    - iii) The space available on the tower for additional equipment;
    - iv) The ground network, if any, served by the tower; and
    - v) A site plan showing the Lot on which any existing or proposed tower, antenna or equipment is located.
  - d) A site plan for the facility which is being applied for shall also be submitted containing:
    - i) The location, type and size of existing and proposed towers, antennas and equipment located at the site;
    - ii) The location of existing and proposed buildings and structures, access easements and parking areas;
    - iii) Detailed drawings of the screening plan and related design standards; and
  - e) A written certification from a professional engineer registered in accordance with the laws of the State of Ohio certifying the following:
    - i) That the tower's design is structurally sound and in compliance with all applicable federal, state, and local building laws including, without limitation, the Ohio Basic Building Code and the National Electric Code;
    - ii) That the tower complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER); and
    - iii) That the tower will, to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location.

**B) General Requirements for Telecommunication Towers.**

- 1) The applicant or tower provider shall demonstrate that the telecommunications tower must be located where it is proposed to service the applicant's service area and that there are no alternative sites reasonably available in any area. This shall include an explanation and accompanying documentation as to why a tower on this proposed site is technically necessary; a description of the suitability of the use of existing towers, other structures or technology not requiring the use of the proposed new tower; and a demonstration that a technically suitable location is not reasonably available on an existing tower, building or structure. If another tower is technically suitable, the applicant must show that a request to co-locate was made and that such request was rejected.

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- 2) All towers shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate such towers. If the applicable standards and regulations are changed, then the owners/operators of the towers shall, if required by the applicable governmental authority, bring such towers into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the applicable governmental authority.
- 3) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued.
- 4) The owner/operator shall annually file a declaration with the Zoning Inspector which certifies that the radio frequency transmission and/or reception equipment attached to the tower is in use and is operational.
- 5) The owner/operator shall provide documentation that notice has been provided in accordance with Section 519.211 of the Ohio Revised Code.

C) Development Standards for all Telecommunication Towers.

- 1) 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.
- 2) The maximum height of a tower shall not exceed one hundred fifty (150) feet.
- 3) The tower shall not be placed closer than one hundred fifty (150) feet from any existing residential Dwelling unit.
- 4) The minimum lot size for which a tower is to be placed shall be two (2) acres.
- 5) The tower shall be located no closer to a Street Right-of-Way than fifteen (15) feet behind the established Building Setback line.
- 6) A tower shall be set back from any adjoining Lot Line a distance which is equal to the height of the tower as measured from its base.
- 7) Security fencing shall be provided to prevent uncontrolled access to the tower site. The tower shall be screened by an eight (8) foot high Fence or barrier. A continuous evergreen hedge, trees or similar landscape materials of a size, type, area, and design deemed appropriate by the Board of Zoning Appeals shall be placed outside of and along the Fence or barrier. Any solid Fence or barrier shall contain no advertising but may contain one small identification Sign not to exceed three (3) square feet in size. The storage of any equipment must be contained inside the screened area.
- 8) The Lot on which the tower is to be located shall meet the minimum Frontage requirements of the Zoning District in which it is located.
- 9) Any screening shall be maintained in good condition. The applicant is responsible for ensuring that the area on which the tower is to be located is kept free of weeds and trash. The outside storage of vehicles or equipment must be contained within the screened area.

- 10) The tower and related screening shall be designed to be aesthetically and architecturally compatible with the surrounding environment. The tower may be painted in non-contrasting gray or similar color minimizing its visibility and shall not contain, or be illuminated by, artificial lights, beacons or strobes, unless otherwise required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC). All surfaces shall be maintained in good condition, absent of flaking or peeling paint, and rust. Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a non-corrosive monopole design.
  - 11) No advertising is permitted anywhere on the telecommunications tower facility except for one identification sign not to exceed one square foot in size.
  - 12) The tower shall be fully automated and unattended daily and shall be visited only for periodic and necessary maintenance. Also, all utility service to the tower shall be underground in accordance with applicable federal, state, and local codes.
  - 13) Where the tower is located on a property which is not owned by the tower operator, the applicant shall present documentation that the owner of the property has approved the application and that vehicular access is provided to the property. Reasonable access and circulation shall be provided to the tower.
  - 14) The applicant shall provide a signed statement indicating that the applicant agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity. Antenna towers are not permitted to be built to a height which exceeds the applicant's service need as substantiated by the testimony and certification of the applicant's engineer. If the tower must be extended in the future to accommodate co-location, the initial tower foundation must be designed to accommodate this extension capability. This ultimate height shall be specified on the drawings submitted with the application. Unless otherwise approved, the tower height shall not be extended until co-locators are installed.
  - 15) A tower may be attached to a residential or nonresidential Building or Structure that is a permitted Use and Structure in the District, provided that the tower's height does not exceed twenty (20) feet above the existing Building or Structure to which the tower is attached; and further provided that all requirements except those found in Items C.2, C.7, and C.9 herein are met. All roof-mounted towers shall be screened from view to the extent possible. The outside storage of vehicles or equipment, if not located inside the Building or Structure on which the tower is located, shall be screened by a minimum eight (8) foot high solid masonry or concrete wall and, outside of and along the wall, a continuous evergreen hedge, trees or similar landscape materials of a size and type deemed appropriate by the Board of Zoning Appeals. The screening shall be maintained in good condition. Any solid wall shall contain no advertising but may contain one small identification Sign not to exceed one (1) square foot in size. The applicant is responsible for ensuring that the tower area is kept free of Junk, trash, and weeds.
- D) Exception to Conditional Use Permit. Telecommunications towers meeting the following conditions shall not be required to obtain a Conditional Use Permit but shall be deemed to be permitted Uses requiring a Certificate of Zoning Compliance.
- 1) Should the owner/operator of a telecommunications tower desire to site a tower on property that falls under their direct ownership and with the consent of the Township Trustees, then a Certificate of Zoning Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements founding the following provisions are met: A.1.e.i and ii; B.2, 3, and 4; and C.5, 7, 10, 11, 13, and 14; herein.
  - 2) Should the owner/operator of a telecommunications tower desire to co-locate a tower on another existing telecommunications tower or on another utility Structure (i.e.,

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water tower) and such co-location will result in a substantial change in the height of the tower, then a Certificate of Zoning Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: A.1.e.i and ii; B.2, 3, and 4; and C.5, 7, 10, 11, 12, and 13; herein. A substantial change in height shall mean the addition of more than forty (40) feet to the existing tower or Structure.

- 3) Should the owner/operator of a telecommunications tower desire to site a tower using a no-impact design (specifically meaning that the tower will be completely invisible to the casual observer by incorporating the tower within an existing Structure such as inside a steeple), then a Certificate of Zoning Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: A.1.e.i and ii; B.2, 3, and 4; and C.10, 11, 12, and 13; herein.

**Section 2205: Wind Turbines**

2205.01 Wind Projects of 5MW or more shall be required to submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO) and are required to meet OPSB regulations. Small Wind Projects less than 5MW and used solely for Agriculture will be exempt from these zoning regulations as an Agricultural Use in accordance with ORC 519.21. Any proposed construction, erection, or siting of a Small Wind Project less than 5MW, including the wind turbine generator or Anemometer or any parts thereof shall be a Permitted Use in all Residential and Planned Residential Zoning Districts. The following conditions shall be met for both by-right and Conditional Use Zoning Permits;

- A) The maximum height of any turbine shall be 125 feet. For purposes of this Resolution, maximum height shall be considered the total height of the turbine system, including the tower, and the maximum vertical height of the turbine's blades. Maximum height shall be calculated by measuring the length of a prop at maximum vertical rotation to the base of the tower.
- B) Setbacks: Any turbine erected on a Lot shall be setback 1.1 times the height of the tower, or established "Clear Fall Zone", from all road Right-of-Way lines and neighboring property lines. A turbine shall be erected and placed in such a manner that if it were to fall, whatever direction the fall occurs would be contained solely on the property where the turbine is located and would not strike any structures including the primary dwelling, and any inhabited Structures.
- C) Maintenance: Wind turbines must be maintained in good working order. The owner shall within thirty (30) days of permanently ceasing operation of a wind turbine, provide written notice of abandonment to the Zoning Inspector. An unused wind turbine or Small Wind Project may stand no longer than twelve (12) months following abandonment. All costs associated with the demolition of the wind turbine and associated equipment shall be borne by the owner. A wind turbine is considered abandoned when it ceases transmission of electricity for thirty (30) consecutive days. Wind turbines that become inoperable for more than twelve (12) months must be removed by the owner within thirty (30) days of issuance of zoning violation. Removal includes removal of all apparatuses, supports, and or other hardware associated with the existing wind turbine.
- D) Decibel levels shall not exceed those provided by the manufacturer as requested in Section 2205.02. All units collectively shall operate at not more than five (5) decibels above the established ambient decibel levels at Lot Lines. This information shall be included in the engineering report described in Section 2205.02. This information shall be obtained from the manufacturer of the turbine, and all decibel readings, if necessary, shall be taken from the nearest neighboring Lot Lines. Those turbines that do not meet this requirement will be issued a zoning violation, in accordance with Section 116, and shall be required to shut down immediately until the required decibel levels are met.
- E) Wiring and electrical apparatuses: All wires and electrical apparatuses associated with the operation of a wind turbine unit shall be located underground and meet all applicable local,

state and federal codes, including the County Building Regulations and Residential Building Code of Ohio.

- F) Warning Signs: Appropriate warning signs to address voltage shall be posted.
- G) Building Permits: All Small Wind Projects and parts thereof shall obtain all applicable building permits from the State of Ohio and Delaware County Code Compliance.

2205.02 Permits: A permit shall be required before construction can commence on an individual wind turbine project. As part of the permit process, the applicant shall inquire with the Delaware County Code Compliance Office as to whether additional height restrictions are applicable due to the unit's location in relation to any local airports. Applicant shall then provide:

- A) The location of all public and private airports in relation to the location of the wind turbine.
- B) The total height and size of the unit.
- C) If applicable, the total size and depth of the unit's foundation structure, as well as soil and bedrock data.
- D) A list and/or depiction of all safety measures that will be on the unit, including anti-climb devices, grounding devices, and lightning protection, braking systems, guy wiring and anchors.
- E) Data specifying the kilowatt size and generating capacity in kilowatts of the particular unit.
- F) The maximum Decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.
- G) Hazardous materials containment and disposal plan.
- H) A site drawing showing the location of the unit in relation to existing structures on the property, roads and other public Right-of-Ways and neighboring property lines.
- I) Evidence of established setbacks of 1.1 times the height of the turbine and "Clear Fall Zone". The manufacturer's recommendation must also be included.
- J) A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled shall be required as part of the permit.

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