

RESOLUTION NO. 41-97

BE IT RESOLVED by the Township Trustees of Union Township, Butler County, Ohio that:

WHEREAS, study of the recently adopted Federal Telecommunications Act of 1996 is required to determine its effects upon a local jurisdiction's ability to regulate wireless and cellular telecommunication towers and facilities and to promote competition among providers of telecommunication services; and

WHEREAS, changes in wireless and cellular telecommunication technology, additional licenses granted by the Federal Communications Commission and the increased demand for telecommunication services have led to an increase in the demand for such communication towers and facilities within Union Township; and

WHEREAS, the Union Township Board of Trustees recognizes the need to promote competition among providers of telecommunication services and to receive adequate telecommunication services, provided that the towers and facilities are designed and located to protect the public health, safety, and general welfare and property values; and

WHEREAS, the Union Township Board of Trustees recognizes that the normal wear of towers and facilities can present a menace to the public safety through discharge of the ice in the freeze-thaw cycle of this climate, through improper maintenance, through failure of the owners to remove the towers or facilities if they fall into disuse, through structural failures, and through natural and man-made disasters; and

WHEREAS, information received from the industry and from other governmental agencies that have studied current technology establishes that towers and facilities can be designed and installed in ways that will not be detrimental to the public health, safety and general welfare and that will minimize negative impacts upon property values; and

WHEREAS, the telecommunication industry can be facilitated in its growth in Union Township through regulations that assure the citizens that there is harmony between the growth in the telecommunication industry and the general concerns for the public health, safety, and general welfare in Union Township.

NOW, THEREFORE BE IT RESOLVED that the Union Township Board of Trustees does hereby establish guidelines for the Union Township Board of Zoning Appeals for conditional use application review for Wireless and Cellular Telecommunication Towers and Facilities as defined in Article 9 and below and as permitted as conditional uses in Articles 22, 24, and 25 Subsections 22.038, 24.032, and 25.035 of the Union Township Zoning Resolution.

UNION TOWNSHIP, BUTLER COUNTY, OHIO REVIEW GUIDELINES

Definitions

Clear and Convincing Evidence. a measure of proof which will produce a firm belief as to the allegation sought to be established.

Wireless and Cellular Alternative Tower Structure. an alternative design mounting structure that is used to camouflage or conceal the presence of antennas or towers, including man-made trees, clock towers, bell steeples or light poles.

Wireless and Cellular Antenna. any exterior apparatus designed for telephonic, radio, television or other electronic telecommunications, through the transmission, relay or receiving of electromagnetic waves.

Wireless and Cellular Co-Location. the process for providing space for more than one (1) user within a facility or on a tower, or the act of placing new or additional wireless and cellular equipment on existing antennas or towers.

Wireless and Cellular Equipment. any antenna, satellite dish, communication device or equipment which is used for transmitting, relaying, or receiving telecommunication signals, except equipment preempted from regulations by the Telecommunications Act of 1996 (P.L. 104-134), as amended.

Wireless and Cellular Equipment Building. any structure located on a tower site which houses the electronic transmitting, receiving or relay equipment for a wireless and cellular telecommunication facility.

Wireless and Cellular Height. the distance measured from ground level to the highest point on a tower, structure or antenna.

Wireless and Cellular Telecommunication Facilities. any cables, wires, lines, wave guides, antennas, equipment, towers, or structures associated with the transmission or reception of communications as authorized by the Federal Communications Commission (FCC) which an applicant seeks to locate or has installed upon a tower or existing structure.

Wireless and Cellular Tower. any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, monopole towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.

Application Requirements

- 1) A conditional use application and plot plan must be submitted in accordance with Article 8, Subsection 8.053 of the Union Township Zoning Resolution. In addition to meeting the application requirements, the plot plan must show:
 - a. The location of all of the applicant's existing towers and facilities within the Township
 - b. The general location of planned future towers and facilities.
 - c. For each applicant's location shown on the plot plan, there shall be listed:
 1. The type and size of tower and facility at each location.
 2. The type of equipment located or proposed on each tower.
 3. The space available on the tower for additional equipment.
 4. The ground network, if any, served by the tower.
 5. A site plan showing the parcel on which any existing or proposed tower is located.
 - d. The location, type, and size of other providers' towers within two hundred (200) feet of the subject tower.
 - e. The location of public easements, parking areas, and any structures.
 - f. Detailed drawings of the proposed screening plan and related design standards.

General Requirements for all Wireless and Cellular Telecommunications Towers and Facilities

- 1). The applicant must co-locate except where they can demonstrate by clear and convincing evidence that its telecommunication antennas or equipment can not be located on any other Wireless and Cellular Telecommunication Tower, in the geographic area to be served, and that all reasonable means have been undertaken to avoid any undue impact caused by the clustering of more than two (2) facilities within two hundred (200) feet of each other. In determining whether a tower facility can or cannot be located on another communication tower, building or structure, the Board of Zoning Appeals shall consider the space available on the existing structure, the technological practicality and other factors deemed appropriate by the Board of Zoning Appeals.
- 2). Shared usage of towers and transmission facilities is encouraged and towers should be designed to accommodate such uses including public telecommunication needs. Appropriate shared parking and access must be provided for co-located facilities on one tower.
- 3). Applicants wishing to construct Wireless and Cellular Telecommunication Towers which have satisfactorily demonstrated to the Board of Zoning Appeals that they are unable to co-locate, are encouraged to locate new towers, facilities, antennas or equipment on public property, subject to the restrictions of this Resolution.

- 4). The applicant will hold the Township harmless against all claims, demands, suits, causes of action and judgements due to any damage caused by the operation or construction of the facility.

Design Standards for Free-Standing Towers:

- 1). All such uses shall be located not less than two hundred fifty (250) feet from the right-of-way of any public street.
- 2). All such uses shall be located not less than five hundred (500) feet from any R-District, recorded residential subdivision, or lot containing a dwelling other than a farm dwelling.
- 3). All such uses shall be located no closer to any lot line than fifty (50) percent of the height of the proposed tower.
- 4). All telecommunication facilities and equipment shall be screened with a minimum six (6) foot high, solid fence or barrier and continuous evergreen hedge or trees of a size that the Board of Zoning Appeals determines will obscure the visibility of one half of the surface of the solid fence or barrier. The screening shall be maintained in good condition. Any telecommunication facility, solid fence or barrier shall contain no advertising, but may contain one (1) identification sign not to exceed one (1) square ft. in size. All such screening shall be located behind the appropriate setback and yard requirements for a principal structure in the district where it is located. The applicant is responsible for ensuring that the Telecommunication Facility is kept free of weeds and trash. The outside storage of vehicles or equipment must be contained inside the screened area.
- 5). The Telecommunication Facility must be aesthetically and architecturally compatible with the surrounding environment. The Board of Zoning Appeals shall be particularly diligent in assuring that the design of the facilities is compatible with the surrounding environment in areas of architectural and historical significance.
- 6). Any Telecommunication Facility shall be declared a nuisance after said facility has ceased to be used for a period of one (1) year. Any Telecommunication Facility shall be removed within one (1) year of ceasing operations. The transfer of ownership of the Telecommunication Facility shall require a new zoning certificate.
- 7). The applicant shall provide written documentation that the applicant has obtained approval from all governing agencies charged with the responsibility of maintaining air safety, including, but not limited to the Federal Aviation Administration (FAA), the Federal Communications Commission, the Ohio Department of Transportation (ODOT), and the Butler County Regional Airport Authority (BCRAA) or their respective successors.
- 8). 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 FAA, the FCC, the ODOT, the BCRAA or their respective successors. All surfaces shall be maintained in good condition, absent of flaking or peeling paint and rust.
- 9). The telecommunication facility and the lot on which the proposed facility desires to locate shall meet the area, frontage, and yard requirements of the District in which it is located.
- 10). Parking area and general site lighting shall be designed and installed to avoid casting direct light or glare onto surrounding properties.
- 11). An access easement to the tower shall be recorded to provide emergency access for the Union Township Fire and Police Departments.

Design Standards for Telecommunication Facilities on Existing Structures:

- 1). All such uses shall be located not less than two hundred fifty (250) feet from the right-of-way of any public street.
- 2). All such uses shall be located not less than five hundred (500) feet from any R-District, recorded residential subdivision, or lot containing a dwelling other than a farm dwelling.

- 3). All such uses shall be located no closer to any lot line than fifty (50) percent of the height of the proposed tower.
- 4). The telecommunication facility shall not exceed the lesser of twenty-five (25) feet or twenty-five (25) percent of the height of the structure on which it is located. All telecommunication facilities and equipment shall be screened with a minimum six (6) foot high, solid fence or barrier and continuous evergreen hedge or trees of a size that the Board of Zoning Appeals determines will obscure the visibility of one half of the surface of the solid fence or barrier. The screening shall be maintained in good condition. Any telecommunication facility, solid fence or barrier shall contain no advertising, but may contain one (1) identification sign not to exceed one (1) square ft. in size. All such screening shall be located behind the appropriate setback and yard requirements for a principal structure in the district where it is located. The applicant is responsible for ensuring that the Telecommunication Facility is kept free of weeds and trash. The outside storage of vehicles or equipment must be contained inside the screened area.
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Adopted the 9th day of September, 19 97

Thomas I. Hayden
Thomas I. Hayden - Yes

Jose Alvarez
Jose Alvarez - Yes

Catherine Stoker
Catherine Stoker - Yes
Township Trustees

Attest: Patricia Williams
Township Clerk