

**CHAPTER 540
Regulations of Wireless Telecommunications Facilities**

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Sec. 540.1 PURPOSE.

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of wireless telecommunication facilities (TCF) shall be regulated within residential districts in the Township.

Sec. 540.2 INTENT.

These regulations are established to provide for the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of wireless telecommunication facilities as a conditionally permitted use in residential districts of the township. 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 telecommunication towers and related facilities for the following purposes:

- A. To protect property values;
- B. To provide for and protect the health and safety of the residents of the Township;
- C. To protect residential properties, parks and open spaces within the Township from the adverse visual impacts of towers and related facilities through buffering, careful design, and siting standards, construction and prompt removal when not utilized;
- D. To promote co-location of wireless telecommunication facilities; and
- E. To maintain, where possible, the integrity of the existing regulations contained in the Zoning Resolution.

Sec. 540.3 PERMITTED LOCATIONS AND LOCATIONS REQUIRING CONDITIONAL USE APPROVAL.

TCFs are permitted by right or by conditional use permit depending upon the zoning district in which they are located.

TCFs exempted from Township regulations pursuant to ORC 519.211 are permitted uses within Montville Township. These permitted TCFs are encouraged to comply with Section 540.6 and the development plan process according to Chapter 720.

Any TCF not exempted from Township regulation per ORC 519.211 shall be conditionally permitted in the residential districts upon compliance with the regulations enumerated within the Montville Township Zoning Resolution.

Sec. 540.4 NOTIFICATION REQUIREMENTS FOR PUBLIC UTILITIES.

Any public utility which plans to construct a telecommunications tower in a residential district shall comply with the requirements set forth in ORC 519.211 for placement of a telecommunications tower and/or facility within residential districts of the Township.

Sec. 540.5 STANDARDS, REQUIREMENTS, AND CONDITIONS APPLICABLE TO ALL WIRELESS TELECOMMUNICATIONS FACILITIES IN RESIDENTIAL DISTRICTS.

It is the desire of Montville Township to have TCFs located within the districts permitted by ORC 519.211. If there are no suitable locations within the districts exempted from Township regulations, the township may conditionally permit locations of telecommunications towers outside of those districts specifically exempted pursuant to ORC 519.211 only upon meeting the following standards and conditions as well as the criteria set forth in Section 540.6; Chapter 450; the procedures set forth in Chapter 730; and only upon conditional use approval by the Board of Zoning Appeals.

- A. The minimum setback of a tower from all property lines shall be a distance equal to the highest point of the TCF plus 25 feet.
- B. All wireless telecommunications equipment, towers, antennae and facilities shall be located a minimum of two (2) times the height of the structure measured from the natural grade at the base to the highest point of the structure from any existing residential dwelling.
- C. There shall be a minimum separation of one (1) mile between wireless telecommunication towers.

- D. All towers shall be of a monopole design and shall not exceed 200 feet in height (including antennae) as measured from the natural grade at the base of the tower. Lattice-type towers shall be prohibited.
- E. All poles having a height greater than 95 feet shall be designed to accommodate at least three antennae.
- F. The base of the tower, equipment facilities and support structures shall be completely enclosed with a secure, chain link fence having a minimum height of 8 feet. Such fence, equipment facilities, and support structures shall be completely screened from view by a landscape buffer area of not less than 15 feet in depth, consisting of hardy evergreen shrubbery and other appropriate landscaping that achieves the maximum screening objective. The initial plantings shall be no less than six feet tall and shall be maintained and restored, as necessary.
- G. The antennae and support structures shall be designed to harmonize with the existing surroundings. At a minimum, towers shall be painted a non-contrasting gray or similar color, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
- H. A permanent easement to the tower site shall be provided to maintain access regardless of other development that may take place on the site.
- I. TCF shall not be artificially lighted except as required for security and safety, or by the Federal Aviation Administration. Any lighting so required shall be installed to minimize the impact on adjoining properties.
- J. All accessory buildings shall comply with the location regulations set forth for the district in which the tower is located and shall not exceed a height of 20 feet. Outside storage shall be prohibited.
- K. “No Trespassing” signs and emergency contact information shall be posted on the structure, listing the manufacturer, owner and any emergency contact personnel, and 24-hour emergency telephone numbers. Each sign shall not exceed four (4) square feet. No other signs or advertising shall be located anywhere on the tower and/or facility.
- L. New wireless antennae shall co-locate on existing towers or on existing structures that have been constructed for other purposes, such as, but not limited to, water towers, church steeples, and chimneys.
- M. In the event that the requirements set forth in Section 540.5 B. are met but co-locating is not available as stated Section 540.5 L., a wireless telecommunication tower and/or antenna facility shall then be located:
 - 1. Within a recorded electric high-tension power line easement, or

2. Other residential area of the township in the event that location within a recorded electric high-tension power line easement is not available.
- N. As a condition of issuing a conditional zoning certificate to construct and operate a tower in the Township, the owner/operator of the telecommunications tower shall agree to:
1. Allow co-location until said tower has reached full antennae capacity, but in no event shall the owner/operator agree to allow fewer than two antennae platforms for additional providers unrelated to the owner/operator;
 2. Make available to the Township and/or County safety forces the opportunity to co-locate on the tower. Agreement to this provision shall be included in the applicant's lease with the landowner, if different from the owner/operator of the tower; and
 3. Provide written documentation to the Board of Zoning Appeals certifying that the owner of the property on which the tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this Section.
- O. TCFs shall be subject to the general guidelines for conditional use, the foregoing conditions, and Section 540.7. The Board of Zoning Appeals may impose additional conditions when it deems it necessary to safeguard the health, safety, and welfare of the community.
- P. Upon conditional use approval and prior to each subsequent approval, the applicant shall post a performance bond with the Montville Township Trustees for the purpose of insuring that an abandoned, obsolete or destroyed wireless telecommunication facility shall be removed in compliance with Section 540.7. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.

Sec. 540.6 APPLICATION SUBMITTAL REQUIREMENTS AND APPROVAL

In addition to conditional use approval, all wireless telecommunications towers and facilities subject to these regulations shall comply with the procedures for development plan review set forth in Chapter 720. The applicant shall submit the following items with the Conditional Zoning Certificate Application and Development Plan Review Application (See also Section 720.5 and Section 730.2):

- A. A detailed development plan showing the TCF and building locations, lighting, easements, and driveway, as well as the type and size of all landscaping materials. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

- B. A plan including all building uses within two times the height of the structure at a scale not less than one inch equal to 100 feet shall be required.
- C. Detailed description of the wireless telecommunications tower(s) or facility(s) capacity including the number and types of antennae that it can accommodate.
- D. Evidence demonstrating that a technically suitable location is not available in any district or neighboring jurisdiction that is exempted from Township regulations pursuant to ORC 519.211.
- E. Evidence demonstrating that a technically suitable location is not available in any district set forth in Section 540.5 L. and Section 540.5 M.
- F. A list showing the location of every tower, building or structure that could support the proposed antennae so as to allow it to serve its intended function including the reasons why such towers, buildings, structures or areas have been determined not to be technically suitable or not available.
- G. Evidence indicating that the applicant has requested under reasonable terms all property owners with technically suitable locations to permit a tower facility in a technically suitable district(s) as set forth in Section 540.5 and evidence verifying that each request was rejected.
- H. Written documentation certifying that the wireless telecommunication facility shall comply with all current Federal Communications Commission (FCC) regulations for non-ionizing electromagnetic radiation (NIER).
- I. A plan documenting how the tower, facility, equipment, appurtenances and surrounding associated land will be maintained on the site.
- J. A reclamation plan that indicates the methods to restore the site to its original state after a wireless telecommunications tower or facility is no longer operational.

Sec. 540.7 ABANDONED AND/OR DAMAGED TELECOMMUNICATIONS FACILITIES.

- A. The owner or operator of a wireless telecommunication facility shall notify the Township within 30 days of a wireless telecommunication facility's permanent abandonment. Such facility shall be removed by the applicant and the site restored to its original state within 120 days from the date of notification to the Township.
- B. Any tower that has had no antenna mounted upon it for a period of twelve months, or if the antennae mounted thereon is/are not operated for a period of six months, it shall be considered abandoned, and the owner shall remove the tower and restore the site to its

original state within 120 days after receipt of a notice from the Zoning Inspector to do so.
(See 540.5 P.-Performance Bond Approval)

- C. If there is an immediate health or safety risk, the tower shall be repaired or removed immediately.
- D. In the event that more than one wireless communication service provider is using the antenna support structure, the antenna support structure shall not be considered abandoned until all such users cease using the structure as provided in this Section.