

## **Chapter 22**

### **PUBLIC UTILITIES**

#### **22.01 PURPOSE**

The purposes of this Chapter to the zoning resolution is to 1) encourage the location of telecommunication towers in non-residential areas and to minimize the total number of towers; 2) encourage the joint use of new and existing towers; 3) encourage telecommunication companies to locate towers in areas of the township where the adverse impact on the community will be minimal; and 4) to provide for appropriate locations for public utilities engaged in the business of transporting persons or property.

#### **22.02 TELECOMMUNICATIONS - GENERAL REQUIREMENTS**

- A. Except as provided in Ohio Revised Code Section 519.211 and Section 22.02 (C) 1-8 of this Resolution with respect to any cellular or wireless telecommunication tower that is owned or used by a public utility, and proposed to be located in an area zoned for residential use, nothing contained in this Resolution shall prevent the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any buildings or structures of any public utility, whether publicly or privately owned, or the use of any land by a public utility for the operation of its business.
- B. In the case of a public utility that plans to construct, locate, erect, reconstruct, change, alter, use or enlarge a cellular or wireless telecommunication tower in an area zoned for residential use, the public utility shall provide evidence satisfactory to the Miami Township Board of Trustees concerning compliance with the notice provisions of Ohio Revised Code Section 519.211 (B). When constructing the tower in any other zoning district the applicant must comply with Ohio Revised Code 519.211, paragraph E relating to the requirement that all owners and occupants of residential dwellings within 100 feet of a proposed tower must be notified, in writing, of the intent to construct the tower.
- C. A permit for the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of a cellular or wireless telecommunication tower may be issued, upon application and compliance with Ohio revised Code Section 519.211 and this Resolution, provided the applicant has satisfied all the following standards:
  - 1. Telecommunication towers shall be subject to the site plan review requirements of Chapter 27 of the Miami Township Zoning Resolution.

2. The applicant shall provide proof in a form satisfactory to the Township that the proposal has been reviewed and/or approved by all agencies and governmental entities with jurisdiction, if required, including, but not limited to, the Ohio Department of Transportation, The Federal Aviation Administration, the Federal Communication Commission, or the successors to their respective functions.
3. The applicant shall demonstrate by clear and convincing evidence that its tower antenna cannot be located on any other communication tower, building or structure, in the geographic area to be served, and that all reasonable means have been undertaken to avoid any undue negative impact caused by the clustering of towers within an area, and that the antenna must be placed where it is proposed in order to satisfy its necessary function in the company's grid system. The evidence should include, but is not necessarily limited to the following:
  - a. The relationship of the proposed telecommunication tower to the applicant's overall grid.
  - b. Structural engineering evidence that an existing telecommunication tower lacks the tolerance to support an additional antenna array.
  - c. Engineering evidence that the frequency of the existing antenna array will interfere with the applicant's frequency.
  - d. Engineering evidence that the addition of an antenna to an existing tower will exceed the FCC RF emissions criteria.
4. In the case of the construction of new facilities by the applicant, the applicant shall agree to construct the telecommunication tower to accommodate additional antenna arrays and shall make the tower available to other cellular and /or wireless communication companies; telephone, radio, and television companies; and the local police, fire, and EMS departments.
5. The perimeter of the telecommunication facility shall be landscaped. The landscaping shall be designed to effectively screen the tower's support structure, the fence around the structure, and any other ground level features. Any combination of existing vegetation, topography, walls, decorative fencing or other feature may be substituted for new landscaping. The landscape material shall be non-deciduous to provide a year round screen.
6. The applicant (or its successor) shall, within thirty (30) days of ceasing operation at the site of the telecommunication tower, give notice of

such to the Miami Township Community Development Department. Facilities shall be removed within twelve (12) months of ceasing operations.

7. Resale or renting of facilities is permissible only to other telecommunication systems subject to obtaining a zoning certificate from the Miami Township Community Development Department.
8. The applicant and/or property owner shall annually file on or before January 1 of each year a declaration with the Miami Township Community Development Department as to the current ownership and operation of every facility located within the Township.

**22.03 – PUBLIC UTILITY IN THE BUSINESS OF TRANSPORTING PERSONS OR PROPERTY**

- A. In accordance with Ohio Revised Code Section 519.211 (C) Miami Township restricts the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service to the “I” Planned Industrial Park District.

Revised: August 15, 2008

