

The Board of Trustees of Colerain Township, County of Hamilton, Ohio, met in regular session at 7:00 p.m., on March 8, 2011, at the Colerain Township Administration Building, 4200 Springdale Road, Cincinnati, Ohio 45251, with the following members present:

Mr. Dennis P. Deters; Mr. Jeffrey F. Ritter; and Mr. Joseph R. Wolterman

Mr. Jeffrey F. Ritter introduced the following resolution and moved its adoption:

RESOLUTION NO. 25 -11

**A RESOLUTION ADOPTING TEXT AMENDMENTS TO THE COLERAIN TOWNSHIP ZONING RESOLUTION REGARDING TELECOMMUNICATIONS TOWERS**

WHEREAS, said proposed text amendment revising the regulations for telecommunications towers in residential districts was initiated by the Colerain Township Zoning Commission at its meeting on September 21, 2010 and was considered following public hearings by the Colerain Township Zoning Commission on November 16 and December 21, 2010; and

WHEREAS, by motion and vote at its regular meeting on December 21, 2010, the Zoning Commission unanimously recommended approval of said text amendment; and

WHEREAS, the Board of Trustees held a public hearing on February 22, 2011 and, at the conclusion of the public hearing, voted to accept the recommendation of the Zoning Commission as set out in Exhibit A;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Colerain Township, Hamilton County, Ohio:

- 1) The Board does hereby adopt the amendment to the Colerain Township Zoning Resolution attached hereto as Exhibit A; and
- 2) That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code; and
- 3) That this Resolution shall be effective at the earliest date allowed by law.


Mr. Joseph R. Wolterman seconded the Resolution, and the roll being called upon the question of its adoption, the vote resulted as follows:

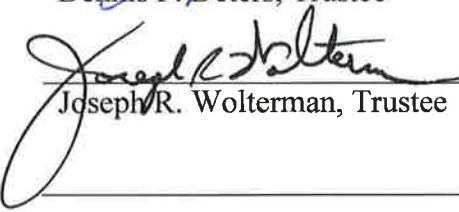
Vote Record: Mr. Deters AYE, Mr. Ritter AYE, Mr. Wolterman AYE

ADOPTED this 8th day of March, 2011.

BOARD OF TRUSTEES:

  
\_\_\_\_\_  
Jeffrey F. Ritter, Trustee


  
\_\_\_\_\_  
Dennis P. Deters, Trustee

  
\_\_\_\_\_  
Joseph R. Wolterman, Trustee

Attest:


  
\_\_\_\_\_  
Heather E. Harlow,  
Fiscal Officer

Prepared by and approved as to form:

  
\_\_\_\_\_  
James E. Reuter (0011414)  
3025 W. Galbraith Road  
Cincinnati, Ohio 45239-4222  
(513) 521 - 8400  
Attorney for Board of Trustees

**AUTHENTICATION**

This is to certify that this Resolution was duly passed and filed with the Colerain Fiscal Officer, this 8th day of March, 2011

  
\_\_\_\_\_  
Heather E. Harlow,  
Colerain Township Fiscal Officer

# EXHIBIT A

## Colerain Township

### ZA2010-03 text amendment

#### Telecommunications Towers

Revisions and Additions to Section 7.4.12 – additions are shown in ***bold italic***, deletions are shown in ~~strike through~~.

#### 7.4.12 Telecommunications Towers

*This section is intended to exercise, to the fullest extent permitted by law, the power of the Board of Trustees of Colerain Township to regulate telecommunications towers and related facilities, and accordingly, this section shall also govern the removal of buildings or structures that are used in the provision of such service. Except in accordance with Ohio Revised Code Section 519.211, hereby incorporated by reference, no person shall locate, erect, construct, reconstruct, change, alter, or enlarge any telecommunications tower in any area zoned for residential use.*

##### Goals, Guidelines, and Objectives

*Existing telecommunications tower sites should be used to the fullest, even if this necessitates the reconstruction or the expansion of existing telecommunications towers.*

*Telecommunications towers and other related facilities to be constructed in areas zoned for residential use shall not include lights except where warranted by clear and convincing evidence.*

*Telecommunications towers and related facilities should be designed and constructed to minimize visual impact. Towers with a greater visual impact (e.g., taller, lighting required, larger ground spaced used, etc.) should be permitted only when the greater visual impact of the tower is mitigated by limiting the need for additional towers.*

*Creative approaches to design, location, and camouflage are encouraged in order to minimize visual impact.*

##### Telecommunications Towers in Residential Districts

(A) Any person who plans to construct a telecommunications tower in a residential zoning district shall provide both of the following by certified mail:

- (1) Written notice to each owner of property, as shown on the county auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed, stating all of the following in clear and concise language:

- a.) The person's intent to construct the tower;
- b.) A description of the property sufficient to identify the proposed location;  
and
- c.) The property owner has a maximum of 15 days after the date of the mailing to give written notice to the Board of Township Trustees requesting that the Board of Zoning Appeals review the telecommunications tower pursuant to the authority granted by Sections 519.02 to 519.25 of the Ohio Revised Code as they apply to the proposed location of the tower.

If the notice to a property owner is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery of the notice does not invalidate the notice.

- (2) Written notice to the Board of Township Trustees of the information specified in Paragraph (1) above. The notice to the Board also shall include verification that the person has complied with the notification requirements of this Section.

**(B) Responses to Notification**

- (1) If the Board of Township Trustees receives notice from a property owner in response to Paragraph (A) of this section within the time specified in that division or if a Board member makes an objection to the proposed location of the telecommunications tower within 15 days after the date of mailing of the notice sent under Paragraph (A) of this section, the Board shall request that the Township Fiscal Officer send the person proposing to construct the tower written notice that the tower is subject to the power conferred by and in accordance with Ohio Revised Code. The notice shall be sent no later than 5 days after the earlier of the date the board first receives such a notice from a property owner or the date upon which a Board member makes an objection. Upon the date of mailing of the notice to the person, Sections 519.02 to 519.25 of the Revised Code shall apply to the tower.
- (2) If the Board of Township Trustees receives no notice under Paragraph (A) of this section within the time prescribed by that division or no Board member has an objection as provided under Paragraph (A) of this section within the time prescribed by that division, the tower shall be permitted as-of-right pursuant to the applicable sections of this Resolution.

- (C) The Board of Zoning Appeals shall review the application for a telecommunications tower as a conditional use where such review is requested by a notified property owner or the Board of Township Trustees pursuant to Section 4.4 (Appeals, Variances, and Conditional Uses). ***A preapplication conference may be held in accordance with the procedure defined in Section 4.3.2(A), except that the informal concept review meeting defined in Section 4.3.2(A)(2) would be held with the Board of Zoning Appeals.***

*The application shall include the following:*

- (1) A map showing the location of all of the applicant's and other providers' existing telecommunications towers and antennas within the Township and contiguous political subdivisions or within a 3-mile radius, whichever is greater;*
- (2) The general location(s) of the applicant's planned future telecommunications towers in the Township and contiguous political subdivisions;*
- (3) For each location shown on the plans, there must be a schedule showing:*
  - (a) The type and size of telecommunications tower;*
  - (b) The type of equipment located or proposed on each tower;*
  - (c) The space available on the telecommunications tower for additional equipment;*
  - (d) The ground network, if any, served by the telecommunications tower;*
  - (e) A site plan showing the parcel on which any existing telecommunications tower is located.*

(D) The Board of Zoning Appeals shall approve a telecommunications tower as a conditional use if the Board finds that the applicant has satisfied all of the following standards:

- (1) The application shall comply with the general standards for a conditional use as established in Subsection 4.4.3 (Conditional Use Review Criteria);
- (2) Proof shall be provided by the applicant in a form satisfactory to the Board that the proposal has been approved by all agencies and governmental entities with jurisdiction, 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 antennae cannot be located on any other communication tower or facility in the vicinity, and that all reasonable means have been undertaken to avoid any undue negative impact caused by the "clustering" of towers within an area. In the event of the construction of new facilities by the applicant, the applicant shall agree to the use of such facilities by other cellular communications companies, telephone, radio, television companies, etc. upon payment of reasonable fees for such use.
- (4) An application shall be denied unless the applicant demonstrates that technically suitable and feasible sites are not available in a non-residential district and that the site is located in the least

restrictive district that includes a technically suitable and feasible site.

- (5) The applicant shall demonstrate that the proposed tower is the least aesthetically intrusive facility for the neighborhood and function. ~~Monopole installations are recommended.~~ All buildings and structures shall be architecturally compatible with the architecture of the adjacent buildings and structures.
- (6) Pole, tower and/or structure placement shall be established on a lot meeting the minimum square footage requirements of the applicable zoning ***district*** and shall maintain a minimum setback of 100 feet from every lot line.
- (7) For reasons of aesthetics and public safety such facilities shall be effectively screened on each side which adjoins premises in any residence district. Screening shall consist of:
  - a.) A solid masonry wall or solid fence, not less than 4 nor more than 6 feet in height;
  - b.) A tight screen or hardy evergreen shrubbery; or
  - c.) Natural or existing screening not less than 4 feet in height.
- (8) The use of razor or barbed wire shall be prohibited.
- (9) Screening walls and fences shall be located not less than 30 feet from each lot line.
- (10) Spaces between any screening device and adjacent lot lines shall be buffered by the use of landscape plant materials including grass, hardy shrubs, evergreen ground cover. All screening devices and landscape materials shall be maintained in good condition and in compliance with the maintenance standards of Article/***Section 14.7: Landscaping and Buffering, Maintenance.***
- (11) The applicant (or its successors) shall, within 30 days of ceasing operation at the site of a telecommunication tower, give ***written*** notice of such ceasing of operation to the Zoning Commission. Facilities shall be removed from the site within 12 months of ceasing operations. Resale or renting of facilities is permissible only to other cellular communications systems subject to obtaining a Zoning Certificate from the Zoning Commission.
- (12) Any conditional use permit issued under this section shall be revocable and may be revoked after notice and hearing if any continuing condition of the certificate has been violated and is not remedied within 30 day of written notice from the Zoning Commission.

(E) ***Expert Review***

***If, in the opinion of the Board of Zoning Appeals and/or the Zoning Administrator, expert review of technical data submitted by an applicant for a***

*telecommunications tower in an area zoned for residential use is needed for purposes of evaluation, the applicant shall reimburse Colerain Township for the actual cost of such review. One or more experts may be selected by the Zoning Administrator for such review. Such experts may include, but are not limited to, engineering services and legal services.*

- (F) *Micro antennas are permitted in all Districts. A micro antenna may be located as a matter of right on existing buildings, poles, or other existing support structures or on newly erected structures provided that the new structure has a significant purpose other than support of the micro antenna. Supporting equipment for a micro antenna shall be (a) hidden inside the support structure to which the antenna is attached; (b) hidden underground; or (c) enclosed in a structure that is otherwise permitted in the zone where the micro antenna is erected and is designed to blend in with the neighborhood where the micro antenna is erected.*

**Add to Article 16 Definitions:**

*Micro antennas are defined as antennas and transmission facilities only, with no supporting structures other than brackets. Micro antennas shall be equal to or less than 5 feet in height and with an area of not more than 580 square inches.*

Telecommunications Tower shall mean any free-standing structure, or any structure to be attached to a building or other structure, that meets all of the following criteria. *“Wireless telecommunications facilities,” “telecommunications site,” and “personal wireless facility” are recognized as alternate terms.*

- a.) The freestanding or attached structure is proposed to be constructed on or after October 31, 1996.
- b.) The freestanding or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunications services.
- c.) The freestanding or attached structure is proposed to be located in an unincorporated area of a township, in an area zoned for residential use.
- d.) The freestanding structure is proposed to top at a height that is greater than either the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulations, or the maximum allowable height of such a freestanding structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.
- e.) The attached structure is proposed to top at a height that is greater than either the height of the building or other structure to which it is to be attached, or the maximum allowable height of such an attached structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.
- f.) The freestanding or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.