

Section 719.153 – Wireless Communication Towers

Wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and standard accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication, and similar communication services and facilities, shall be permitted as a special land use in the AG, Agricultural District, the GB General Commercial District, the LI, Light Industrial District, and the HI, Heavy Industrial District when found to be essential or desirable to the public convenience or welfare and in conformance with the following requirements:

- A. The applicant shall submit a written statement and technical verification regarding the nature of any transmissions, electromagnetic fields, or any other radiation emitted from the facility, and any potential hazards to humans, animals, or any other materials or property in the area. Further, communication towers and facilities shall be designed and operated to prevent broadcast interference with any equipment located on nearby properties.
- B. A written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice, and other naturally occurring hazards shall be submitted. This information shall also address the potential for the tower or other mounting structure or antennae to topple over or collapse and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided. Monopole (stealth or equivalent type) antenna structures shall be required where such are technologically feasible. In all cases, communication towers shall be designed to blend into the surrounding environment to the maximum extent feasible.
- C. To maximize the efficiency of providing such services while minimizing the negative impact of such facilities on the Township, collocation of such facilities on an existing tower or other existing structure is required, when feasible. An applicant shall furnish written documentation as to why a collocation at another site is not feasible and whether they have, in fact, contacted the owners of existing facilities to determine if collocation is possible. If the application represents a new tower/antenna facility, the applicant shall provide a letter of intent to lease any excess space on a tower facility and shall commit itself to:
 1. Promptly respond to any information requests from a potential co-user of their tower/antenna.

2. Negotiate in good faith and allow for leased, shared use of the facility when it is technically practical; and,
3. Make no more than a reasonable charge for a shared-use lease.

D. If the application involves collocation on an existing tower or structure, the public hearing requirements shall be waived, and approval shall only include a site plan and documentation by the co-user as to their compliance with all the terms and conditions required of the host applicant. Collocation may be permitted by the Planning Commission, after site plan review, on all existing towers and existing similar structures, regardless of the Zoning District in which it is located.

E. Approval of a communication tower facility shall not be granted until such time that the applicant has demonstrated all the following:

1. The proposed facility is needed because of its proximity to an interstate highway or major thoroughfare, or is in proximity to areas of population concentration, or concentration of commercial, industrial, or business centers or
2. The proposed facility is needed because there are areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions, and
3. The proposed facility is needed because the telecommunications provider is unable to collocate its facility with another provider or other structure, and the proposed facility is required to complete its grid as it relates to the needs of Lenox Township and its surrounding communities and that there are no suitable sites in any of said surrounding communities; and
4. The proposed facility is designed and operated to operate within the requirements for radio frequency emissions of the Federal Communications Commission, and the applicant has operated similar facilities within these requirements consistently.

F. The development of any such facility, together with accessory uses, shall be in such a location, size, and character as to be compatible with the orderly development of the Zoning Districts in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at large. Furthermore, the location and

improvement of facilities, as provided for herein, shall also be subject to the following additional requirements.

1. Towers may be located in the AG, GB, LI, and HI zoning districts after special land use approval and provided that the location of such facilities does not represent a hazard to the use and/or development of other uses on the site and in the area. New tower development is prohibited in all other zoning districts in the Township.
2. The site shall be of such size and shape (no less than two (2) acres) that the proposed tower facility may be developed in compliance with all requirements of the Township, and any such tower/antenna shall not exceed one hundred ninety-nine (199) feet in height above the average grade around the structure it is mounted upon. Within that maximum structural height, sufficient support structures shall exist to accommodate no less than seven (7) additional antennas of licensed carriers in a collocation arrangement.
3. The tower site shall meet all Township standards relating to drainage, lighting, landscaping, general safety, and other applicable standards. All landscaping shall be placed in an aesthetically pleasing and functional manner. Such landscaping shall be incorporated along access drives servicing the tower site.
4. A six-foot fence shall surround all communication towers and facilities to prevent unauthorized access and vandalism. Such a fenced compound shall not be less than one hundred (100) feet by one hundred (100) feet. Further, six-foot-high evergreen trees shall be placed at ten-foot intervals on-center outside of said fence to screen the tower base and ancillary facilities.
5. Lighting associated with communication towers and facilities shall comply with all applicable FAA regulations. Where tower lighting is required, it shall be shielded or directed to the maximum extent possible to minimize the amount of light that falls onto nearby properties.
6. A 12-foot-wide access road shall be provided and maintained in good condition to provide access for service and emergency vehicles. Such access road shall meet all Township engineering design requirements.
7. Setback requirements will be determined in relation to the tower/antenna design and collapse data previously required in this Section.

8. Minimum setback requirements, unless otherwise provided for, are as follows:

- a. When adjacent to a nonresidential zoning district, the setback shall not be less than the overall height of the tower/antennas. This setback requirement shall also apply to any accessory buildings. If the design and collapse data for the tower properly document its ability to collapse down upon itself, the setback requirements to any side or rear yard property line abutting a Nonresidential Zoning District may be reduced to one-half ($\frac{1}{2}$) the overall height of the tower. In no instance shall any tower facility be located within the front yard. Accessory buildings shall be screened from view by an obscuring greenbelt.
- b. When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of the tower/antennas plus one-half ($\frac{1}{2}$) of the proposed tower height. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirement to any side or rear yard property line abutting any Residential District may be reduced to the overall height of the tower/antenna. In no instance shall any tower be located within the required front yard. Accessory buildings and uses shall be screened from the view of any public right-of-way and residential zoning district by an obscuring greenbelt.
- c. Further modifications to the side and rear yard setbacks may be considered when it is documented that the adjacent property is non-buildable due to wetlands, floodplains, or other significant limitations. It shall also be found that developing the tower would have no adverse effects on reasonable development patterns in the area.

9. Cellular antennae and supporting structures shall be permitted to be attached to buildings and structures in all zoning districts, whether they are accessory to the building use, subject to the following conditions:

- a. The principal use is a conforming use, and the building is a conforming structure.
- b. If connected directly to the main building, antennae may be attached to any portion of the building. Such antennae or antennae with supporting structures may not exceed twenty (20) feet in height.

- c. The structure that supports antennae may not exceed ten (10) feet in height.
- d. Such antennae with supporting structure shall not be credited to the overall height of the building.
- e. Any structure that supports antennae shall be setback from the outermost vertical wall or parapet of the building, a distance equal to at least two (2) times the height of such supporting structure.
- f. In addition to site plan review, the Planning Commission, with a majority vote, may require an independent third-party review of an application. Such a review shall be conducted by a professional engineer specializing in this type of communication technology and will be paid for by the applicant. The requirement for such a review shall be based on one (1) or more of the following findings:
 - (1) The applicant has not substantiated a need for a proposed tower to the satisfaction of the Planning Commission.
 - (2) The applicant has been unable to disprove the ability to collocate on an existing tower or structure to the satisfaction of the Planning Commission.
 - (3) The applicant has not substantiated the structural safety of a structure to be commensurate with the requested setback.
 - (4) The Planning Commission determined that the applicant's data was disorganized, confusing, or misleading.
 - (5) The applicant has not substantiated that alternative technology cannot be utilized in place of the proposed tower construction.
- g. All structures, buildings, and required improvements shall comply with all other applicable codes and ordinances and be continuously maintained in a safe, healthful, and complying condition. Every telecommunication provider with sites located in Richmond shall provide the Township with an annual report disclosing the radio frequency emissions of each tower or antenna it has within the Township and require annual inspections of radio frequency emissions of each tower or antenna by the Township to ensure that they are being operated within the requirements of the Telecommunications Act of 1996, as amended.

The permit may include a requirement for periodic structural and safety inspections and reports, as deemed necessary by the Township Board. The Township shall charge a fee for the annual inspection to cover its costs.

- h. A condition of every approval of a wireless communication facility shall be adequate provision for removing the facility by users and owners when the facility has not been used for one hundred eighty (180) days or more. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three (3) feet of the caisson upon which the tower is located and covering the remaining portion with topsoil. For purposes of this Section, the removal of towers, antennas, or other equipment from the facility or the cessation of operations (transmission and reception of radio signals) shall be considered as the beginning of a period of non-use.
- i. The applicant shall deposit with the Township, in a form that is satisfactory to the Township, a performance guarantee in an amount established by the Township Board resolution as security for the removal of the tower if abandoned.