

CHAPTER 27

SPECIAL PROVISIONS

- 27.01 Private Swimming Pools: A private swimming pool, whether in ground or above ground, but not including farm ponds, as regulated herein, shall be any pool any pool, pond, lake or open tank, not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1½) feet. No such swimming pool shall be allowed in any residence zone except as an accessory use and unless it complies with the following conditions and requirements:
- a. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use or the occupants of the property on which it is located.
 - b. It may not be located closer than twenty (20) feet to any property line of the property on which it is located.
 - c. The swimming pool or the entire property on which it is located shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall be not less than four (4) feet in height and maintained in good condition.
 - d. Any pool for the use of the occupants of multiple family buildings, containing over three apartments shall meet the structural and sanitary requirements of the Ohio Department of Health.
- 27.02.A Inoperable Motor Vehicle: Except in Zoning District M-2 Heavy Industry, and then only if screened from the view of persons on contiguous property or the public right-of-way, no person shall use any property in any district for the purpose of parking, keeping, or storing any inoperable motor vehicle(s). As used in this section, “parking, keeping, or storing of any inoperable motor vehicles” means and includes storing, maintaining, collecting, depositing, reserving, allowing to stand, or permitting to remain, one or more inoperable motor vehicles at any place other than in a fully enclosed garage.
- For the purpose of this section, a motor vehicle shall be deemed inoperable when any of the following conditions exist: one or more wheels are missing; one or more tires are missing; two or more tires are flat; one or more windows are missing or broken; the windshield is shattered or missing; parts necessary for the operation of the vehicle are missing or inoperable; or a license with a distinctive number and valid for the current year is not displayed thereon.
- Motor vehicles, refrigerators, stoves, or other pieces of machinery or equipment not being used for the purpose for which it was manufactured, shall be permitted only in Zone M-2 Heavy Industry, and then only if it is screened from view of persons on contiguous property or persons using the public right-of-way.
- 27.02.B Commercial Vehicle: One licensed commercial and/or one recreational vehicle and/or one commercial trailer may be stored or parked on a residentially zoned lot of two (2) acres in size or more in compliance with the regulations below. However, such vehicles must be parked in a manner as to not to obstruct sidewalks and pedestrian pathways or the site distance from vehicular traffic. Infrequent, short-term parking of a commercial vehicle(s) or trailer(s) for conveying tools and materials to premises where labor using such tools is being performed, delivering goods to a residence, or moving furniture to or from a residence, during the time such parking is actually necessary, is hereby exempted

from this section.

For purposes of this section, “commercial vehicle” means any vehicle used or designated to be used for business or commercial purpose which infringes on the residential character of a residential district and includes, but is not necessarily limited to: a bus, cement truck, commercial tree-trimming equipment, construction equipment, dump truck, garbage truck, panel truck, semi-tractor, semi-trailer, stake bed truck, step van, tank truck, tar truck, or other commercial-type vehicle licensed by the State of Ohio Bureau of Motor Vehicles as a commercial vehicle or truck. The occupant of the residence may have one commercial trailer on the premises which is an accessory to the commercial vehicle normally parked on the property.

27.02.C Except in Zoning District M-1 Light Industry or M-2 Heavy Industry, and then only if screened from the view of persons on contiguous property or the public right-of-way, no person in any district shall store, collect, leave, deposit, maintain, reserve, put aside for future use, permit, allow in a yard area, except in a completely enclosed building or structure or neatly stored against the house in the side or rear yard of the property.

1. Any lumber or other building materials except those related to a project for which a current building permit has been issued and for firewood for the personal use of the resident;
2. Any automotive parts, including tires;
3. Materials used in the construction trade;
4. Household appliances;
5. Furniture capable of harboring rodents;
6. Junk, salvage or miscellaneous debris.

27.02.D Standards Relative to Noxious Weeds: No owner or person in control of a parcel, dwelling, dwelling unit, multiple dwelling, business building or premises shall allow grass, weeds, noxious weeds, brush or similar vegetation to remain on the premises at such a height and density as to constitute harborage, actual or potential, for rodents or vermin within (100) feet of any abutting property line or (100) feet from any right of way.

For the purpose of this section of the code, a height of (12) inches constitutes a potential hazard. The foregoing shall not apply to a premises or part thereof on which such growth may be reasonably demonstrated to be for agricultural, horticultural, or natural prairie or wooded areas.

27.03 An antique shop may be operated in the main building of the premises in a residential zone, on the same basis as any home occupation as regulated in Section 3.22., and all items in storage or for sale are kept inside the main building of the premises.

27.04 Telecommunication Tower: The location, erection or construction, reconstruction, change or alteration, and/or enlargement greater than twenty (20) feet of a communication tower shall be subject to the following provisions, excepting maintenance or use of such tower, or any change or alteration that would not substantially increase the tower height.

- A. Any person planning to construct a telecommunication tower shall provide the following information by certified mail:
 1. Written notice to the Board of Township Trustees and to each owner of the property, as shown on the county auditor’s current tax list, whose land is contiguous to or directly across a street or roadway for 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 a tower, a general description of said tower and any equipment buildings;
 - b. A description of the property sufficient to identify the proposed location;
 - c. That no later than fifteen (15) days after the date of mailing of the notice, any property owner may give written notice to the Board of Township Trustees, requesting that Section 27.04 (B) of the Zoning Code apply to the proposed location of the tower. If the notice is returned unclaimed or refused, the person shall mail said notice by regular mail. Failure to deliver the notice does not invalidate said notice.
2. If the Board of Township Trustees receives notice from a property owner within the time specified, or if a member of the Board of Township Trustees makes an objection to the proposed location of the telecommunication tower within the time specified, the Board of Township Trustees shall send the person proposing to construct the tower written notice that the tower is subject to the provisions of Section 27.04 (B) of the Zoning Code. The notice shall be sent no later than five (5) days after the earlier date the Board first receives such notice from the property owner, or the date upon which a member of the Board of Township Trustees makes an objection. Upon the date of mailing to the person, Section 27.04 (B) of the Zoning Code shall apply to the tower.

B. Siting Provisions for Telecommunication Towers:

1. Location and Co-Location or Shared Use

- a. Location of a telecommunication tower shall be subject to Sec. 5.10 (General Provisions) of the Zoning Code. Prior to approval of the tower location, the applicant shall provide documentation that the proposed tower has been reviewed and has been determined not to be a hazard by the Federal Aviation Administration or other Federal or State Authority, as applicable.
 - b. In order to minimize tower proliferation, the applicant shall provide documentation regarding efforts to exhaust all possible avenues to share space on existing towers. This shall include, but not be limited to, a certified mail announcement to all other tower users in the vicinity stating siting needs and/or sharing capabilities. Applicants shall not be denied, nor shall they deny space on a tower unless available space on existing towers, a tower owner's ability to lease space, structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, comparative costs of co-location versus new construction and any Federal Communications Commission limitations on tower sharing preclude co-location.
2. Structural Integrity: All new or altered telecommunication towers shall be certified by an engineer licensed in the State of Ohio, according to current standards of the Telecommunication Industry Association. To ensure structural integrity and the health, safety and general welfare of the public. Telecommunication tower inspections shall take place as follows: Monopole towers at least every ten (10) years; Self-support towers at least every five (5) years; Guyed towers at least every three (3) years. Inspections are the sole

responsibility of the tower operator of record and shall be performed by an individual or company that is a member of the National Association of Tower Erectors. Results of inspection shall be provided in writing to the Zoning Officer. Based upon such results, the Board of Township Trustees may require the repair or removal of the telecommunication tower.

3. Lot Size: Lot size shall be the minimum for the zoning district in which the telecommunication tower is to be built.
4. Setbacks and Clear Falling Zones: Telecommunication tower setbacks shall establish a clear zone for falling tower debris, ice and/or the collapse of the tower. Towers one hundred (100) feet or greater in height shall be located such that the distance from the base of the tower to any adjoining property line or supporting structure of another tower is a minimum of one hundred (100) percent of the proposed tower height. No variance shall be granted from this minimum setback requirement. Towers less than one hundred (100) feet in height that cannot satisfy this one hundred (100) percent setback requirement may be approved, provided that the applicant presents certification that the tower meets requirements of the American National Standards Institute, Electronic Industry Association and the Telecommunication Industry Association 222-F, that the tower will withstand wind up to one hundred (100) miles per hour. Equipment buildings, while accessory to a particular telecommunication tower(s), shall be setback from adjoining streets and/or property lines, per the minimum requirements for principal structures in the Zoning District in which they are proposed.
5. Screening and Landscaping: Existing on-site vegetation shall be maintained to the greatest extent possible. In addition, at a minimum, the perimeter of the site shall be planted with at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting, spaced not more than five (5) feet on center. For towers one hundred (100) feet or greater in height, in addition to the above, at least one row of deciduous trees, not less than one point five (1.5) inches in diameter measured three (3) feet above grade at time of planting, spaced not more than twenty (20) feet on center, shall be planted within twenty-five (25) feet of the perimeter of the site. Additional landscaping and alternate means of screening the base of the tower and any equipment buildings or off-street parking may also be required by the Hamilton Township Board of Trustees. Towers shall be painted green below the prevailing treetop level.
6. Electromagnetic Fields (EMF's): In the interests of the health, safety, and general welfare of the public, a complete non-ionizing electromagnetic radiation (NIER) analysis shall be submitted with every tower and co-location (shared use) application. The required NIER analysis shall meet the American National Standards Institute (ANSI) published standards of the Institute of Electrical and Electronics Engineers (IEEE). Additional tower setbacks may be required as a result of said NIER analysis. At such time that the United States Government issues standards for public exposure to EMF's, said standards shall apply regarding tower location and minimum setbacks.
7. Equipment Buildings: Equipment shall be automated to the greatest extent possible to reduce traffic and congestion. These facilities shall not include business offices, long-term vehicle storage, outdoor storage, or other uses not necessary to transmission or reception, or broadcast studios, except for emergency purposes. The use of residentially-compatible paint color and materials, such as wood, brick or stucco is required for associated equipment

buildings, which shall be designed to architecturally match the exterior of residential structures in the vicinity. In no case shall metal exteriors be allowed for equipment buildings.

8. Off-Street Parking and Site Access: Off-street parking shall be required only in cases where equipment buildings are staffed. In such cases, at least two (2) off-street parking spaces and one (1) additional space for two (2) on-site personnel shall be provided. Where the site abuts or has access to both a collector street and a local street, access for vehicles shall be exclusively by means of the collector street.
9. Lighting: Telecommunication towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable Federal or State Authority. When so required, it shall be oriented upward, so as not to project onto surrounding residential properties. In any case, overall site illumination shall be such that measurements along the perimeter of the site shall not exceed 0.20 foot candles.
10. Security: A six (6) foot tall fence, including a locked gate shall be erected along the perimeter of the site. "No Trespassing" signage shall be prominently posted. If electrified security fencing is employed, signs shall be posted every twenty (20) linear feet, reading, "Danger—High Voltage".
11. Abandonment: The applicant (or its successors) shall, within thirty (30) days of ceasing operation of a telecommunication tower, provide written notice of abandonment to the Zoning Inspector. An unused telecommunication tower may stand no longer than twelve (12) months following abandonment. All costs associated with demolition of the tower and associated equipment buildings shall be borne by the most recent tower operator(s) of record.

27.05

Amateur Radio Towers: Hamilton Township shall make reasonable accommodations for amateur radio towers or antennas for the purposes of providing voluntary, noncommercial communication services, particularly with respect to providing emergency communications. Moreover, the amateur radio service provides a reservoir of trained operators, technicians and electronic experts who can be called on in times of national or local emergencies.

In order to assure the proper placement or height of amateur radio towers based on the health and safety of the residents within Hamilton Township, any person planning to construct and/or enlarge an amateur radio tower on residential property shall be subject to the following provisions:

Submission of a zoning certificate to Hamilton Township clearly indicating the following information:

1. Location of the amateur radio tower on the subject property.
2. Setback of the amateur radio tower from all property lines.
3. Height of the tower including all antennas.
4. Location of all structures on the property.
5. Location of the tower fall zone and the location of all structures within the tower fall zone.
6. Fee in accordance with the Zoning Fee Schedule.
7. A valid Amateur Radio License for the property owner/tower operator.

27.05.A

Provisions for Amateur Radio Towers

Residential Accessory Use: The amateur radio towers must be an accessory use (Section 3.03.A of the Hamilton Township Zoning Code) to a residential dwelling and under the use of the primary resident, who is licensed by the FCC for amateur radio operation. At no time may the tower be used for a commercial purpose, including signage.

1. Structural Integrity: The plans for all new and altered amateur radio towers shall be prepared by a certified professional engineer or in accordance with the tower manufacturer's guidelines for installation. Applicant must show evidence that the proposed facility will have sufficient structural strength to support the radio tower and related equipment.
2. Setbacks: Amateur radio towers 35 feet and under shall be setback a minimum distance of five feet from the rear and side property lines, but may not project into any front yard of the residence. See Section 27.05.A.3 for required setbacks for towers over thirty-five (35) feet in height.
3. Height: In order to make reasonable accommodations for amateur radio towers, there shall be a height limit of thirty-five feet in all residential areas. An additional height limit up to seventy (70) feet for amateur radio towers may be granted when the tower setback meets a ratio of 1 foot from the base of the tower to all adjoining property boundaries for every 1 foot of tower height up to seventy (70) feet. Height measurements shall be taken from the top of the tower or the highest antenna to the finished grade.
4. Lighting: Amateur radio towers shall not be artificially lighted unless required by the Federal Aviation Administration or other applicable Federal or State Authorities. When so required, lighting shall be oriented upwards, so as to not project onto surrounding residential properties. In any case, overall site illumination shall not exceed 0.20 footcandles along the perimeter of the site.
5. Abandonment: Permission for the amateur radio tower resides with the applicant for the specific property and does not transfer to a different site nor to new owners of the property. New owners may apply to Hamilton Township for permission to retain the tower for amateur radio antenna under this provision. The applicant (or its successors) shall within thirty days of ceasing operation of the amateur radio or tower, provide written notice of abandonment to the Zoning Inspector. An amateur radio tower may not stand longer than 12 months following abandonment.

27.05.B

Review Process

1. The completed zoning application shall be forwarded to the Hamilton Township Planning and Zoning Department. The application and all associated information shall be reviewed within ten (10) days. If the application is approved evidence of such will be forwarded to the applicant and the Warren County Building Department.
2. If the application is denied due to any of the provisions above, or where effect of any of the provisions of this chapter would prevent or preclude the effective operation of an amateur radio tower (including the ability to send or receive signals where applicable), the applicant may forward an appeal to the Hamilton Township Board of Zoning Appeals (BZA). It is the responsibility of the applicant to clearly demonstrate that the effect of these regulations prevent or preclude the effective operation of the amateur radio tower.