



H.B. 174

127th General Assembly
(As Introduced)

Reps. Fessler, Peterson, Healy, Chandler, Skindell

BILL SUMMARY

- Subjects telecommunications towers in unincorporated residential areas that are constructed on or after the bill's effective date to county and township zoning authority by eliminating the need for an objection to such a proposal.
- Requires 45 days' notice before construction of a telecommunications tower begins to residential dwellings that are located within 100 feet of the proposed tower site.
- Requires county and township zoning authorities to require that a person proposing to construct a telecommunications tower make a reasonable attempt to co-locate the tower on an existing structure.

CONTENT AND OPERATION

Telecommunications towers and zoning

County and township authority to regulate telecommunications towers

Generally, county and township zoning authorities cannot regulate the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any building or structure of any public utility (R.C. 303.211(A) and 519.211(A)). However, county and township zoning authorities can regulate telecommunications towers with respect to their location, erection, construction, reconstruction, change, alteration, removal, or enlargement in an area zoned for residential use, but not with respect to the maintenance or use of such a tower or any change or alteration that would not substantially increase the tower's height (R.C. 303.211(B) and 519.211(B)).

The definition of "telecommunications tower" has specific criteria, all of which must be met in order for such a tower to be subject to zoning regulations. A telecommunications tower may be subject to county and township zoning regulations if it is a free-standing or attached structure that is proposed:

- to be constructed on or after October 31, 1996;
- to be owned or principally used by a public utility that is engaged in the provision of telecommunications services;
- to be located in an unincorporated area of a township, in an area zoned for residential use;
- to top heights which exceed certain criteria; and
- to have attached to it radio frequency transmission or reception equipment. (R.C. 303.211(B)(1) and 519.211(B)(1).)

Proposals to construct towers before the effective date of the bill unaffected

The bill does not change current law for telecommunications towers that are proposed to be constructed before its effective date. Under current law, any person who plans to construct a telecommunications tower in an unincorporated residential area that is subject to county or township zoning regulations must provide notice to the township zoning authorities in the township in which the tower is proposed to be constructed and to each owner of property whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed. Upon receiving notice, a property owner or a member of the board of township trustees can request that the board of county commissioners apply the relevant zoning regulations to the proposed location of the tower or a county commissioner may object to the proposal. After the person planning the tower's construction has been notified of the objection, the tower is subject to zoning regulation. Thus, if there is an objection to the construction, the tower becomes subject to the zoning regulations. (R.C. 303.211(B)(4)(b) and 519.211(B)(4)(b).) If no such objections are timely made, the zoning regulations do not apply to the tower. (R.C. 303.211(B)(4)(a) and 519.211(B)(4)(a).)

Proposals to construct towers after the effective date of the bill subject to zoning regulations

The bill makes telecommunications towers that are proposed to be constructed in unincorporated residential areas on or after its effective date subject

to county and township zoning laws, regardless of whether anyone objects to the proposal. (R.C. 303.211(B)(2) and 519.211(B)(2).)

Under the bill, 60 days before construction of a telecommunications tower begins, written notice by regular mail is to be provided to the board of county commissioners, to the board of township trustees of the townships in which the tower is proposed to be constructed, and to each property owner whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed. The notice must clearly and concisely state the person's intent to construct the tower and a description of the property that is sufficient to identify the proposed location of the tower. (R.C. 303.211(F) and 519.211(F).)

Notice to residential dwellings 45 days before commencing construction

Current law requires people proposing to construct telecommunications towers to provide written notice to owners and occupiers of residential dwellings that are within 100 feet of the proposed tower, including towers that are within incorporated areas of a township.¹ The bill clarifies that this notice be provided at least 45 days before construction of the tower begins. (R.C. 303.211(E)(1) and 519.211(E)(1).)

Requirement to attempt to co-locate towers

Whenever county or township zoning authorities exercise their zoning powers with respect to a telecommunications tower, the zoning authorities are required by the bill, where feasible, to require the person planning to construct the tower to make a reasonable attempt to co-locate the tower on an appropriate existing structure (R.C. 303.211(B)(2)(a) and 519.211(B)(2)(a)).

HISTORY

ACTION	DATE
Introduced	04-24-07

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¹ Presumably, this means that notice is required for the proposed location of a telecommunications tower in an incorporated area of a township and zoned by municipal authorities for residential use.