

ORDINANCE NO. 95

AN ORDINANCE OF THE TOWNSHIP WESTFALL, COUNTY OF PIKE AND COMMONWEALTH OF PENNSYLVANIA, AMENDING ORDINANCE NO. 76-1, AS AMENDED, COMMONLY KNOWN AS "THE WESTFALL TOWNSHIP ZONING ORDINANCE OF 1990", TO AMEND SECTION 2.2 TO ADD ADDITIONAL DEFINITIONS; TO AMEND SECTIONS 4.4(b), 4.8(b) and 4.9(b) TO INCLUDE COMMUNICATIONS TOWERS AS CONDITIONAL USES IN THE C.D. - CONSERVATION DISTRICT, C-2 - GENERAL COMMERCIAL DISTRICT AND C-3 - MIXED COMMERCIAL AND INDUSTRIAL DISTRICT; TO AMEND SECTION 5.20 TO ESTABLISH APPLICATION, DESIGN, MAINTENANCE AND INTERFERENCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES, TO REQUIRE REMOVAL OF ABANDONED OR UNUSED COMMUNICATIONS TOWERS OR PORTIONS THEREOF AND TO SET FORTH THE REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES.

WHEREAS, it is the desire of the Westfall Township Board of Supervisors to amend portions of Ordinance No. 76-1, commonly known as "The Westfall Township Zoning Ordinance of 1990" in order to establish guidelines for the siting of communications towers and antennas, so as to encourage their location in non-residential areas, encourage the joint use of new and existing communication tower sites, encourage owners and users of communication towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal, and encourage owners and users of communication towers and antennas to configure them in a way that minimizes any adverse impact of the communication towers and antennas upon the public health, safety, convenience, order, appearance, prosperity and general welfare.

NOW, THEREFORE, be it ordained and enacted by the Board of

Supervisors of Westfall Township, Pike County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, the following amendments to Ordinance No. 76-1, commonly known as the "Westfall Township Zoning Ordinance of 1990":

SECTION I.

The following definitions are hereby added to Section 2.2:

"Alternative Tower Structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers."

"Antenna: Any exterior device or apparatus designed for cellular, digital, telephonic, radio, pager, commercial mobile radio, television, microwave or any other wireless communications through sending and/or receiving of electromagnetic waves, including without limitation, omnidirectional or whip antennas and directional or panel antennas. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas."

"Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, including any antennas attached thereto or forming a part thereof. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height."

"Antenna Support Structure: Any communication tower or any other structure which supports an antenna."

"Common Carrier: An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices."

"Communications Equipment Building: An unmanned building or cabinet containing communications equipment required for the operation of Antennas and covering an area on the ground not greater than 250 square feet."

"Communications Tower: A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or other similar forms of electronic communication. The term includes, but is not limited to, radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas."

"FCC: The Federal Communications Commission."

"Guyed Tower: A communication tower that is supported, in whole or in part, by guy wires and ground anchors."

"Lattice Tower: A guyed or self-supporting three or four sided, open, steel frame structure used to support communications equipment."

"Monopole Tower: A communication tower consisting of a single pole, constructed without guy wires and ground anchors."

"Preexisting Towers and Antennas: Any tower or antenna on or for which a permit has been issued prior to the effective date of this Ordinance."

"Public Utility Transmission Tower: A Structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electric transmission lines."

"Self-Support Tower: A communication tower that is constructed without guy wires and ground anchors."

"Temporary Wireless Communication Facility: Any tower, pole, antenna, etc., designed for use while a permanent wireless communication facility is under construction, or for a special event or conference where a majority of people attending are wireless users."

"Wireless Communication Facility: An all encompassing definition; any towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions."

SECTION II.

The definition of "Essential Services", as set forth in Section 2.2 is hereby modified to provide as follows:

"Essential Public Utility Services: The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of gas, electric, steam, water or sewage transmission or distribution systems including buildings, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health or safety or general welfare, excluding Wireless Communication Facilities as defined herein."

Essential Services shall exclude Wireless Communication Facilities as herein defined.

SECTION III.

A. Section 4.4(b) - "Services" is hereby amended to add the following use:

3. Wireless Communication Facilities.

B. Section 4.8(b) is hereby amended to add the following use:

Services.

1. Wireless Communication Facilities.

C. Section 4.9(b) is hereby amended to add the following use:

Services.

1. Wireless Communication Facilities.

SECTION IV.

A new Section 5.2(c) (14) is hereby added to Article 5 of the Westfall Township Zoning Ordinance of 1990 as follows:

"Communication Towers, Antennas and Communication Equipment and Buildings":

A. Antennas and Communication Equipment Buildings.

1. Building mounted Antennas shall not be located on any single family dwelling or two-family dwelling.
2. Building mounted Antennas shall be permitted to exceed the height limitations of the applicable Zoning District by no more than twenty (20) feet.
3. Omnidirectional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
4. Directional or panel Antennas shall not exceed five feet in height and three (3) feet in width.
5. Any applicant proposing an Antenna to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
6. Any applicant proposing an Antenna to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antenna will be mounted on the structure for review by the Township Engineer.
7. Any applicant proposing an Antenna to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the Antenna is to be mounted so that installation and maintenance of the Antennas and Communications Equipment Building can be accomplished.

8. Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
9. Antennas shall not cause radio frequency interference with other communications facilities located in Westfall Township.
10. Communications Equipment Building shall comply with the height and setback requirements of the applicable zoning district for an accessory structure.
11. The owner or operator of Antennas shall be licensed by the Federal Communications Commission to operate such Antennas.

B. Communication Towers.

1. In addition to the information required elsewhere in the Westfall Township Zoning Ordinance of 1990 and the Westfall Township Subdivision and Land Development Ordinance, applications for communication towers shall include the following information and documentation:
 - a. A report from a qualified and Pennsylvania licensed professional engineer which:
 - I. Describes the communication tower height and design including a cross section and elevation;
 - ii. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - iii. Describes the communication tower's capacity, including the number and type of antennas that it can accommodate;
 - iv. Documents what steps the Applicant will take to avoid interference with established public safety telecommunications;

- v. Includes the Pennsylvania licensed engineer's license/ registration number and seal.
- b. A letter of intent committing the communication tower owner and his/her successors to allow the shared use of the communication tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- c. Before the issuance of a zoning/building permit, the following supplemental information shall be submitted:
 - I. A copy of the FAA's response to the submitted "Notice of proposed Construction or Alteration" (FAA Form 7460-1) shall be submitted to the Westfall Township Zoning Officer; and
 - ii. Proof of compliance with applicable Federal Communications Commission, Federal Aviation Administration, Commonwealth Bureau of Aviation and any applicable airport zoning regulations.
- d. Typical specifications for the proposed structures and antenna, including description of design characteristics and material.
- e. Site plan drawn to scale showing property boundaries, power location, communication tower height, guy wires and anchors, existing structures, elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property.
- f. Name and address of the owners of all antenna and equipment to be located at the site as of the date of the application.
- g. Written authorization from the site owner for the application, as well as a copy of any written agreements or other documentation pursuant to which the applicant has obtained the right to use the proposed site.

- h. Copy of valid FCC license for the proposed activity, or proof that the applicant is the winning bidder for an FCC license at auction and that the final issuance of the FCC license purchased at auction is pending.
- i. A written agreement to remove the communication tower within One Hundred Eighty (180) days of cessation of use, which written agreement shall be in form acceptable to the Township.
- j. Written certification by Applicant and Applicant's engineer that the proposed antenna and equipment could not be placed on a pre-existing facility under the control of the applicant and function under applicable regulatory and design requirements without unreasonable modification.
- k. A letter of intent committing the communication tower owner and the Common Carrier(s) utilizing the communication tower, and their respective heirs, personal representatives, successors and assigns to allow Westfall Township and any other governmental agency to utilize the communication tower in case of an emergency, upon reasonable terms and conditions.
- l. Any and all permits and/or approvals required from any and all local, state and federal authorities shall be obtained by the Applicant and copies of such permits and/or approvals forwarded to the Township upon receipt. Failure to obtain all required local, state and federal permits and/or approvals within one (1) year of the issuance of the zoning permit shall result in said zoning permit becoming null and void with no further action on the part of the Township.
- m. The applicant shall submit certification from a Pennsylvania registered professional engineer that the proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and

Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association.

2. Additional standards for all communication towers erected, constructed or located within Westfall Township which are classified as a conditional use in the zoning district where proposed shall comply with the following requirements:
 - a. A proposal for a new communication tower shall not be approved unless the Board of Supervisors finds that the communications equipment planned for the proposed communication tower cannot be accommodated on an existing or approved communication tower, public utility tower, building or other structure within Westfall Township, or within a two (2) mile search radius of the proposed tower if such two (2) mile search radius would include other municipalities, due to one or more of the following reasons:
 - i. The planned equipment would exceed the structural capacity of the existing or approved public utility tower, communication tower, building or other structure, as documented by a qualified and Pennsylvania licensed professional engineer, and the existing or approved public utility tower, communication tower, building or other structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - ii. The planned equipment would cause interference materially impacting the useability of other existing or planned equipment at the public utility tower, communication tower, building or other structure as documented by a qualified and Pennsylvania licensed professional engineer and the interference cannot be prevented at a reasonable cost.

- iii. Existing or approved public utility towers, buildings and other structures within Westfall Township (or within the two (2) mile search radius of the proposed site for the communication tower if applicable) cannot accommodate the planned equipment at a height necessary to function reasonably.
 - iv. Addition of the planned communications equipment would result in electromagnetic radiation from such existing or approved public utility towers, buildings and other structures exceeding applicable standards established by the FCC governing exposure to electromagnetic radiation.
 - v. After a bona fide, diligent attempt, a commercially reasonable agreement could not be reached with the owners of such other public utility towers, communication towers, buildings or other structures.
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- b. The proposed communication tower in the specific location desired must be necessary for the efficient operation and provision of the wireless communications service to the neighborhood, area or region for which it is proposed.
 - c. The design and location of the proposed communication tower and related facilities and equipment shall conform to the general character of the area and will not adversely affect the same and comfortable enjoyment of the properties owned by other property owners in the area.
 - d. The proposed communication tower shall be designed to accommodate municipal and non-profit emergency service antennas and related equipment, which shall be allowed to be attached to any such tower at no charge to the municipal or emergency service provider.

3. Design Requirements.

- a. Any proposed communication tower shall be designed, structurally, electrically and in all respects, to accommodate both the Applicant's antennas and comparable antennas for at least two (2) additional users if the communication tower is over one hundred (100) feet in height, or for at least one (1) additional user if the communication tower is over sixty (60) feet in height. Communication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- b. Communication towers and antennas shall be designed to blend in to the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- c. Communication towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. Any other exterior lighting at the communication tower site shall be directed away from all adjacent properties and shall be in conformance with subsection 6.7(g).
- d. All communication equipment buildings and structures accessory to a communication tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects the architectural character of the neighborhood.
- e. The use of any portion of a communication tower for signs other than warning or other

equipment signs is prohibited.

- f. Access shall be provided to the communication tower and communication equipment building by means of a public street or easement to a public street. The easement shall have a maximum grade of no greater than eight (8%) percent, shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all-weather surface for its entire length. The easement shall be maintained at all times so as to provide access to the communication tower and communication equipment building by emergency services vehicles.
 - g. All communication towers shall be surrounded by a twelve (12) foot non-climbable fence with barbed wire extending in an outward direction around the top of the said fence.
 - h. Adequate off-street parking, but no less than two spaces, shall be provided to accommodate the needs of the communication tower and communication tower equipment building, which off-street parking shall be paved with an all-weather surface at a minimum.
 - i. Subdivision and/or Land Development approval (as applicable) shall be required for all proposed communication towers.
 - j. All guy wires associated with any communication tower shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
4. Interference with Public Safety.
- a. No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new antennas and/or communication towers shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the

introduction of new service, changes in existing services, or additions of new antennas, telecommunication providers shall notify Westfall Township at least fourteen (14) calendar days in advance of such changes and allow Westfall Township to monitor interference levels during the testing process.

- b. Wireless Communication Facilities shall be maintained and kept in a state of repair so that the same shall not constitute a nuisance or hazard to the health or safety of the community or nearby residents or properties.

5. Abandoned or unused communication towers or portions of communication towers.

- a. Abandoned or unused communication towers or portions of communication towers shall be removed as follows:

- I. All abandoned or unused communication towers and associated facilities shall be removed within one hundred eighty (180) days of the cessation of operations. A copy of the relevant portions of any signed lease, license or other agreement which requires the Applicant to remove the communication tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a communication tower is not removed within one hundred eighty (180) days of the cessations of operations at a site, the communication tower and associated facilities may be removed by Westfall Township and the cost of removal assessed against both the Applicant and the owner of the property on which the communication tower and associated facilities exist.

- ii. Unused portions of communication towers above the manufactured connection shall be removed within one hundred eighty

(180) days of the time of antenna relocations. The replacement of portions of a communication tower previously removed requires the issuance of a new zoning permit.

iii. Annually, but not later than March 1 of each year, the owner of the property upon which any communication tower has been constructed, or his agents, duly authorized in writing, shall provide to the Township a certification by a professional engineer licensed to do business in this Commonwealth of the costs of removing the communication tower. After review by the Township engineer and the Township engineer's certification to the Board of Supervisors of the Township engineer's concurrence in the amount specified in the certification, the owner of the property shall cause to be posted with the Township a bond in the amount of one hundred ten (110%) percent of the costs so certified, said bond to be in accordance with the provisions of the Westfall Township Subdivision and Land Development Ordinance.

B. It shall be the duty of the owner of the property upon which any abandoned or unused communication tower and associated facilities has been constructed to cause the removal thereof in accordance with the provisions of this subsection.

6. Setbacks.

The setback of the base of a communication tower from all adjacent properties and/or lot lines shall be a distance equal to One Hundred Twenty-Five (125%) percent of the Antenna Height, or the building setback requirements for the underlying zoning district, whichever is greater. For purposes of this section, the building setback for a single family dwelling shall be the applicable reference to determine setback requirements in CD and C-3 zoning districts, and the building setback

for two family dwellings shall be the applicable reference to determine set back requirements in the CD zoning district.

7. Lot Size.

The minimum lot area requirement for a communication tower use shall be five (5) acres, or the minimum area necessary to comply with the setback requirements of subsection 6 aforesaid, whichever is greater.

8. Antenna Height.

The maximum Antenna Height shall not exceed two hundred (200) feet in any zoning district.

SECTION V.

The provisions of this Ordinance shall not apply to Preexisting Towers and Antennas unless the same are altered, modified or replaced.

SECTION VI.

Except as amended hereby, all provisions of Ordinance No. 76-1 shall remain in full force and effect. Furthermore, the provisions of any other existing ordinances or parts of ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

SECTION VII.

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED into an Ordinance this 24th day of March, 1999.

BOARD OF SUPERVISORS OF WESTFALL TOWNSHIP

By: [Signature]

By: [Signature]

By: [Signature]

By: _____

By: _____

ATTEST:

[Signature]
Secretary