

ORDINANCE NO. 99-03

WEST PIKELAND TOWNSHIP CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE PURSUANT TO THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE AMENDING THE WEST PIKELAND TOWNSHIP ORDINANCE, ADDING TO SECTION FOUR-(4) "DEFINITIONS" OF ARTICLE (ONE)-1; ADDING TO SECTION (SEVEN)-7 ARTICLE TEN (10) FOR REGULATING THE PLACEMENT OF COMMUNICATIONS TOWERS; CREATING SECTION 5B1 OF ARTICLE ELEVEN (11) STANDARDS OF REVIEW OF PROPOSED CONDITIONAL USE OF COMMUNICATION TOWER.

Whereas, technical developments in the telecommunications field have provided new options for the expansion and delivery of wireless communications services to the Township of West Pikeland and its residents; and

Whereas, tax Board of Supervisors of West Pikeland Township recognizes that the Township, its police, fire and emergency medical responders and its residents and visitors rely on wireless communications services for business and personal uses. and

Whereas, the Board of Supervisors desires to encourage efficient and adequate wireless communications services within the Township while protecting the public health, safety, and welfare and the Township of West Pikeland's built and natural environment by promoting compatible design standards for telecommunications facilities.

NOW THEREFORE, the Board of Supervisors of West Pikeland Township ordains that the Zoning Ordinance shall be amended as follows:

SECTION 1. Section Four (4) "Definitions" of Article (One) 1 of Chapter "Zoning" of the Code of Ordinances of West Pikeland Township is hereby amended by adding at the appropriate alphabetical and numerical position the following items and definitions therefor:

Communications Antenna: Any devise used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or whip antennas and directional or panel antenna, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such devices. *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.*

Communications Equipment Building: All unmanned Building or cabinet containing communications equipment required for the Operation of Communications Antennas and covering an area on the ground not greater than three hundred fifty (350) square feet.

Communications Tower: A monopole tower designed and used to support Communications Antennas.

Height of Communications Tower: The vertical distance measured from mean level of the ground surrounding the tower to the highest point of the structure including any antenna affixed thereto.

Structure: Anything built, constructed or erected which requires location on the ground or attachment to something located on the ground.

SECTION 2. A new Subsection - (Communications Towers, Antenna and Equipment) is added to Section (Seven) 7of Article X “General Regulations” of the West Pikeland Township Zoning Ordinance is hereby created to read as follows:

Communication Towers Antenna and Equipment

1. Communications antennas attached to or mounted on an existing public utility building, structure or pole, existing communications tower, water tower or other non-residential building or structure, are permitted by right if the height of the antenna does not exceed the existing structure by more than ten (10) feet, Antennas shall be constructed to simulate the architectural facade and/or color of the building or object to which it is attached.
2. A communications antenna that is either not mounted on an existing structure, or is more than ten (10) feet higher than the structure on which it is mounted, may be permitted, in addition to other permitted uses on the same lot in the District or on any parcel owned by West Pikeland Township not dedicated to active public use or restricted areas to use by encumbrances filed with the Recorder of Deeds of Chester County, or within the Chester Springs Historic District, when authorized as Conditional Use, following review and recommendation by the Planning Commission, and so long as the proposed development conforms to the Area and Bulk- requirements of the District for which it is proposed.

All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) is prohibited from the antenna or tower site, unless permitted in the Zoning District in which the antenna or tower is located.

3. All communications towers, antennas and associated equipment shall be maintained and kept in good repair as required by federal law H.R. 6180/S.2882, the Telecommunications Authorization Act of 1992 including amendments to Sections 303(q) and 503(B)(5) of the Communications Act of 1934, and all Township Ordinances consistent therewith.

A NEW SECTION 3: Section 1105 B1 is hereby added Standards for Review of Proposed Conditional Use is hereby created by adding the following review criteria:

1. If a Conditional Use is sought to permit the installation of a Communications Tower and/or antenna, the Board of Supervisors shall determine that the applicant meets the following standards and criteria before granting the request:
 - a. The Applicant shall demonstrate that the proposed Communications Tower and Communications Antennas proposed to be mounted thereon is the minimum height required to function satisfactorily. No Antenna taller than this minimum height shall be approved, unless the Applicant proves that another provider of wireless, cellular or personal communications services has already agreed to co-locate. on the Applicants Communications Tower at greater height than the Applicant requires.
 - b. The Applicant shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Such evidence shall include propagation diagrams and radio frequency studies, and the data upon which diagrams and studies rely, included with the application., at the time of filing, that indicate the height and location are the lowest height and best location to effect the efficient provision of communication services by the Applicant.
 - c. The Applicant proposing a communications tower (as opposed to Mounting antenna on an existing structure), is required to demonstrate that it contacted the owners of structures within a two mile radius of the site proposed, whether within or outside the township, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. This would include water towers, utility poles, support structures of other communications companies, and other high structures. The municipality may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure and has not demonstrated that there are no available alternatives. A good faith effort shall require that one (1) or more of the following reasons for not selecting such structure apply:
 - (1) The proposed antenna and related equipment would exceed the structural capacity of the existing Structure and its reinforcement cannot be accomplished at a reasonable cost.
 - (2) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing Structure and the interference cannot be prevented at a reasonable cost.
 - (3) Such existing Structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.

- d. The applicant shall provide a plan prepared by a landscape architect showing landscaping that they will install to screen and buffer as much of the support structure as possible. The Landscape Plan may incorporate existing features where appropriate. The proposed landscaping shall comply with the requirements of the West Pikeland Township Subdivision and Land Development Ordinance to the extent same is applicable.
- e. In order to reduce the number of antenna support structures needed in the community in the future, the applicant shall demonstrate that the proposed support structure shall be designed to accommodate other users including other cellular communications companies and/or local police, fire and emergency responders. Further, the Tower owner will agree to accommodate providers of telecommunications service at commercially reasonable rates and to accommodate public services free of charge.
- f. All communication towers over thirty-five (35) feet in height must meet ANSI EIA/TIA-222E (American National Standards Institute Electrical Industry Association, Telecommunications Industry Association tower specifications) requirements or its latest revision. Further, due to local weather conditions, the tower must be built to withstand one hundred (100) MPH sustained winds with a uniform loading of fifty (50) pounds, or short duration gusts of up to One Hundred fifty (150) MPS. An independent structural engineer registered in Pennsylvania shall attest to the proposed Tower's ability to meet this requirement and certify proper construction of the foundation and erection of the tower.
- g. The maximum height of a communication tower shall be one hundred fifty (150) feet, except that a tower of up to two hundred fifty (250) feet may be permitted so long as:
 - (1) there are no inhabited structures or electrical transmission lines within a two hundred fifty (250) foot radius;
 - (2) the tower is lighted to prevent interference with air traffic if, but only if required by the Federal Aviation Administration, and
 - (3) the Board of Supervisors is assured that all health, safety and welfare issues have been properly addressed.
- h. Owners of communication towers higher than thirty-five (35) feet will secure the property boundary, or at a minimum the tower base including any support structures, with a chain link fence which shall be ten (10) feet in height. In addition to the boundary security, all communication towers in excess of thirty-five (35) feet in height will have an integral security platform, or other means of locked access, to prevent unauthorized climbing of the tower. Landscaping will be provided around all fences and to screen them from public views and adjoining properties.

- i. All communication tower owners will provide the Township with a statement that the emission of radio waves emanating from the tower will neither cause harm to an individual by its operation nor cause measurable radio interference to the reception or operation of AM radios, TV and FM reception, car or cellular or portable phones, heart pacemakers, garage door openers, remote control units for models, and other radio dependent devices in general use within the Township and is in compliance with all FCC regulations.
- j. If measurable radio interference does result from the installation and use of the communication tower, the owner of that tower will be required to cease operation immediately, until the problem is corrected, or If the problem is not correctable to abandon operation entirely and dismantle the tower as required in Section H of this Ordinance.
- k. The communication tower Owner is required, to notify the Township immediately upon cessation or abandonment of operation. The communication tower owner has ninety (90) days in which to dismantle and remove all structure from the property. At the time of issuance of the permit for the construction of the communication tower, the owner shall provide financial security in form and amount to be determined.

SECTION 4. SAVING CLAUSE

Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 5. SEVERABILITY

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted as if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 6. DATE OF EFFECT

This Ordinance shall become effective five (5) days from the. enactment hereof.

ENACTED and ORDAINED this _____ day of _____, 1999 by the Board of Supervisors of West Pikeland Township.

West Pikeland Township
Board of Supervisors

Chairman

Date: _____

ATTEST: _____ Vice Chairman
