

TOWNSHIP OF WAYNE
SCHUYLKILL COUNTY, PENNSYLVANIA
ORDINANCE NO. 2015-7

AN ORDINANCE OF THE TOWNSHIP OF WAYNE, SCHUYLKILL COUNTY, PENNSYLVANIA, AMENDING THE WAYNE TOWNSHIP ZONING ORDINANCE OF 1982 TO PROVIDE FOR THE PLACEMENT AND REGULATION OF COMMUNICATIONS TOWERS AND ANTENNAE; REPEALING INCONSISTENT ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS, the Board of Supervisors of Wayne Township recognizes that the Township, its residents, its visitors, and the police, fire and emergency services that serve the Township, all rely upon wireless communications services for business and personal uses; and

WHEREAS, the Board of Supervisors desires to encourage efficient and adequate communications services within the Township, while protecting the public health, safety and welfare; and

WHEREAS, to facilitate efficient and adequate communications services and protect the interests of its residents, the Board of Supervisors desires to regulate the construction and the placement of communications towers and antennae; and

WHEREAS, federal and state statutes and regulations impose certain limitations on the Township's ability to regulate the placement and construction of communications towers and antennae; and

WHEREAS, it is necessary to amend the Wayne Township Zoning Ordinance to address these concerns; and

WHEREAS, the Board of Supervisors of Wayne Township have previously enacted Ordinance No. 1982-1, as amended by Ordinance Nos. 1989-1, 1990-1, 1992-1, and 2012-1, known as the "Wayne Township Zoning Ordinance of 1982, as amended"; and

WHEREAS, a public hearing was held on the proposed amendment, on July 15, 2015, in accordance with the requirements of Section 609 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10609; and

WHEREAS, public notice and advertising of the proposed amendments have been made, as required by Sections 609 and 610 of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10609 and 10610.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Wayne Township, Schuylkill County, Pennsylvania, and it is hereby enacted and ordained as follows:

1. The Wayne Township Zoning Ordinance of 1982, as amended, is hereby further amended as set forth in Exhibit "A", attached hereto and herein incorporated as though fully set forth.


2. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

3. This ordinance shall become effective five (5) days after its enactment.

ENACTED AND ORDAINED this 15th day of July, 2015, by the Board of Supervisors of Wayne Township, in lawful session duly assembled.

ATTEST:

*BOARD OF SUPERVISORS OF THE
TOWNSHIP OF WAYNE*


Secretary

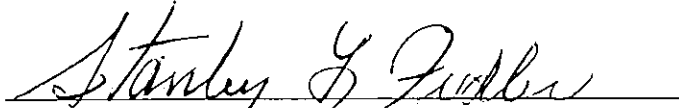

Chairman

EXHIBIT “A”

Section 1. In §201.4, the following new definitions are hereby inserted in alphabetical order:

Communications Antenna: Any device 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 omni or whip antennas and directional or panel antennas, mega cells, macro cells, micro cells, and pico cells, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. 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: An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 375 square feet.

Communications Tower: A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas on private property or public right-of-way.

Essential Services: The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their essential buildings, excluding communications towers and communications antennas, as defined herein.

Height of Communications Tower: The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

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 electricity transmission lines.

Section 2. In the R-1 District (Low-Density Residential) and R-2 District (Medium-Density Residential) and R-3 District (Residential), the following new Use by Rights is hereby inserted:

Communications antennas mounted on an existing Public Utility transmission tower, building or other structure, and communications equipment buildings.

Section 3. In the R-2C District (Residential/Commercial), the following new Use by Rights is hereby inserted:

Communications antennas mounted on an existing Public Utility transmission tower, building or other structure, and communications equipment buildings.

Section 4. In the R-2C District (Residential/Commercial), the following new Use by Special Exception is hereby inserted:

Communications towers subject to the Standards for Communications Towers as Special Exceptions set forth at §804.10 and communications equipment buildings.

Section 5. In the C-R District Conservation – Recreation and C-W District (Conservation Watershed), the following new Use by Right is hereby inserted:

Communications antennas mounted on an existing Public Utility transmission tower, building or other structure, including existing Communications Towers, and communications equipment buildings.

Section 6. In the C-R District Conservation – Recreation and C-W District (Conservation Watershed), the following new Use by Special Exception is hereby inserted:

Communications towers subject to the Standards for Communications Towers as Special Exceptions set forth at §804.10, and communications equipment buildings.

Section 7. In the A District (Agriculture), the following new Uses by Right are hereby inserted:

Communications antennas mounted on an existing Public Utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings.

Section 8. In the A District (Agriculture), the following new Use by Special Exception is hereby inserted:

Communications towers subject to the Standards for Communications Towers as Special Exceptions set forth at §804.10, and communications equipment buildings.

Section 9. In the I District (Industrial), the following new Use by right is hereby inserted:

Communications antennas mounted on an existing Public Utility transmission tower, building or other structure, including existing communications towers, and communications equipment buildings.

Section 10. Section 501.4 (Exceptions to Height Regulations) is hereby amended by adding the following sentence at the end of the paragraph:

These height exceptions shall not apply to any communications antennas or communications towers.

Section 11. Section 501. Additional Regulations for All Districts (General Area Provisions and Exceptions) is hereby amended by adding the following:

501.16 Regulations Governing Communications Antennas and Communications Equipment Buildings.

Building mounted communications antennas shall not be located on any single-family dwelling or two family dwelling.

Building mounted communications antennas shall be permitted to exceed the heights limitations of the applicable Zoning District by no more than 20 feet.

Omni directional or whip communications antennas shall not exceed 20 feet in heights and 7 inches in diameter.

Directional or panel communications antennas shall not exceed 5 feet in height and 3 feet in width.

Any applicant proposing communications antennas to be mounted on a building or other structure shall submit documentation 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.

Any applicant proposing communications antennas mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure to be reviewed for compliance with Wayne Township's Building Code and other applicable law(s)

Any applicant proposing communications antennas 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 antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.

Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

Communications antennas shall not cause radio frequency interference with other communications facilities located in Wayne Township.

A Communications equipment building shall be subject to the height and setback requirements of the applicable Zoning District for an accessory structure.

The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such antennas.

Section 14. Section 804 (Special Exception Conditions) is hereby amended to add the following:

804.10 Standards for Communications Towers as Special Exceptions.

The applicant shall demonstrate that is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.

The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

Communications towers shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable Airport Zoning Regulations.

Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:

- (a) The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
- (b) 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.
- (c) 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) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- (e) A commercially reasonable agreement could not be reached with the owners of such structures.

Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 feet with a dust-free, all weather surface for its entire length.

A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot which meets the minimum lot size requirements for the Zoning District.

Recording of a plat of subdivision or land development in accordance with the Wayne Township Subdivision and Land Development Ordinance shall be required for a parcel on which a communications tower is proposed to be constructed.

The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.

The maximum height of any communications tower shall be 150 feet; provided, however, that such height may be increased to no more than 200 feet, provided the required setbacks from adjoining property lines (not lease lines) are increased by one foot for each one foot of height in excess of one hundred fifty (150) feet.

The foundation and base of any communications tower shall be set back from a property line (not lease line) located in or adjacent to any Residential District at least 150 feet and shall be set back from any other property line (not lease line) at least 100 feet.

The base of a Communications Tower shall be landscaped so as to screen the foundations, base and communications equipment building from abutting properties.

The communications equipment building shall comply with the required yards and height requirements of the applicable zoning district for any accessory structure.

The owner shall provide and maintain a back-up power generator for the tower and its ancillary facilities sufficient to provide power to operate the tower and its ancillary facilities in the event of a power outage for the entire power outage. The back-up generator shall be exercised periodically in accordance with manufacturer's instructions.

The applicant shall submit certification from a Pennsylvania registered professional engineer that a 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 and applicable requirements of Wayne Township's Building Code.

The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications tower; and a Certificate of Insurance evidencing

general liability coverage in the minimum amount of \$1 million per occurrence and property damage coverage in the minimum amount of \$1 million per occurrence covering the communications tower and communications antennas. The owner shall submit renewals to the township annually.

The applicant shall submit a survey map showing the following information:

- (a) Perimeter boundary lines of the communication tower site and of the larger parcel from which it is taken.
- (b) The landowner(s) of the proposed communication tower with deed book reference and UPI, and the adjoining landowner(s) with deed book reference and UPI.
- (c) North arrow and map scale.
- (d) Dimensions of parcel and contour lines.
- (e) Access to the proposed site.
- (f) Communications tower height, location, and placement of all ancillary improvements.
- (g) All buildings within 300 feet with designations (residence, school, etc.).
- (h) Fall zone, fence locations, other security.
- (i) Required setback lines for the zoning district.

All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.

The site of a communications tower shall be secured by a fence with a maximum height of 8 feet to limit accessibility by the general public.

No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.

Communications Towers shall be protected and maintained in accordance with the requirements of the Wayne Township's Building Code.

If Communications Tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communications tower within six 6 months of the expiration of such 12 month period.

A removal agreement signed by the owner must be submitted (notarized). The removal agreement must specify that the owner will remove all foundations, surface structures and restore the surface of the site to conditions that existed prior to development of the site. Should the owner fail to remove, Wayne Township may remove at the expense of the owner.

The owner shall enter into a financial security agreement with Wayne Township, acting by and through the Wayne Township Board of Supervisors, to guarantee the obligation of the owner to remove or demolish the telecommunication tower, to include the posting of financial security in an amount to be mutually determined by the Applicant and the Township pursuant to estimates of the cost of removal or demolition of the tower.

One off street parking space shall be provided within the fenced area.