

**FRANKLIN TOWNSHIP
ORDINANCE NO. 2003 - 001**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF FRANKLIN TOWNSHIP TO REGULATE THE
PLACEMENT OF COMMUNICATIONS TOWERS, ANTENNAE
AND FACILITIES.**

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

WHEREAS, the Board of Supervisors recognizes that the Township of Franklin, its police, fire and emergency medical services and its residents and visitors rely on wireless communications services for business and personal uses; and

WHEREAS, the Board of Supervisors therefore desires to encourage efficient and adequate wireless communication services within the Township of Franklin while at the same time, protecting the public health, safety and welfare; and

WHEREAS, in an effort 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 antennas; and

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

WHEREAS, it is necessary to amend the Zoning Ordinance to make it consistent with the interests of the Township of Franklin and its residents and the limitations imposed by federal and state statutes and regulations.

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

PART 1 [TO BE INSERTED AS ADDITION TO "DEFINITIONS" IN ZONING ORDINANCE]

Communications Antenna: Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other personal wireless service facility signals, including without limitation Omnidirectional or whip antennas and directional or panel antennas, 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 unnamed Building or cabinet containing communications equipment or any other personal wireless service facilities required for the operation of Communications Antennas and covering an area on the ground not greater than 250 square feet.

Area of a Communication Site: The area shall be the area needed to accommodate the tower, guy wires (if used), the equipment building, security fence, parking area and buffer planting.

Communication Tower: A Structure other than a Building, such as a monopole, self-supporting or guyed tower, designed and used to support Communications Antennas for personal wireless service facilities.

Height of a Communications Tower: The vertical distance measured from the mean ground level of the Communications Tower site area 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 electrical company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

Communication Tower Site: Any lot or building lot whether owned or leased, or any structure located on any lot or building lot, on which communication towers, equipment buildings, and/or antenna are located or proposed to be located. Nothing herein shall be construed to permit the use on a communication tower site as an office, long term vehicle storage, other outdoor storage or other uses not needed to send or receive telecommunication signals.

Structure: Any thing built, constructed or erected which requires location on the ground or attachment to something located on the ground, whether or not affixed to the ground.

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.

Part 2 [TO BE INSERTED AS ADDITION TO "PERMITTED USES" IN ZONING ORDINANCE]

In all Districts, the following new permitted use is hereby added:

Communications Antennas mounted on an existing Public Utility Transmission Tower, Communication tower, Building or other Structure, and related Communications Equipment Buildings. Subject to the standards set forth at Part 4 hereof.

Part 3 [TO BE INSERTED AS ADDITION TO “CONDITIONAL USE” IN ZONING ORDINANCE]

In all Districts the following new Use as a Conditional Use is hereby inserted:

Communications Towers and required Communications Equipment Buildings subject to the Standards For Communications Towers as Conditional Uses set forth at Part 5.

PART 4 [TO BE INSERTED AS ADDITION AS A NEW SECTION TO ZONING ORDINANCE]

Regulations Governing Communications Antennas and Communications Equipment Buildings.

1. Where possible a Communications Antenna shall be attached to an existing structure or building.
2. A Communication Antenna must be located a minimum distance of 1,000 feet, or the maximum distance provided in any applicable federal or state statute or regulation, wherever is greater, from any existing dwelling erected on any lot of land within any Residential District.
3. An antenna may not be located on a building or structure that is listed on a historic register, or is in a historic district.
4. Building mounted Communications Antennas shall not be located on any single family dwelling or two family dwelling.
5. Building mounted Communications Antennas shall be permitted to exceed the height limitations of the applicable Zoning district by no more than twenty (20) feet.
6. Omnidirectional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
7. Directional or panel Communications Antennas shall not exceed five (5) feet in height and three (3) feet in width.
8. Any applicant proposing Communications Antennas 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.

9. Any applicant proposing Communications Antennas to be mounted on a Building or other Structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review by the Code Enforcement Officer for compliance with the Township building code and other applicable law.

10. 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.

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

12. Communications Antennas shall not cause radio frequency interference with other communications facilities located in the Township.

13. All communications Equipment shall be enclosed within an existing building, or an addition to the existing structure, unless the site is vacant, then the Communications Equipment Building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure.

14. A landscape buffer shall be planted in accordance with section 708 and vehicle access and parking access to the building shall not interfere with the parking or vehicular circulation on the lot of the principal use.

15. The Communications Tower Site shall be fully automated and unattended on a daily basis, unless emergency conditions prevail. Two reserved off-street paved parking spaces shall be required upon a Communications Tower Site.

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

17. Any security fence shall be a minimum of eight (8) feet tall with, as a minimum, the lower six (6) feet being visually opaque. The fence is to be constructed of wood, decorative masonry or appropriate iron elements designed to minimize the visual impact of the fence on the surrounding landscape. The following materials will not be permitted: fences made of mesh or chain link as well as vinyl. Barbed or security wire will not be permitted nor will electrified fences of any type.

Security fences constructed of common cast masonry units will not be permitted, unless the fence matches the predominant finish of the primary structure on the lot (not to include the equipment building). Decorative, split, ground or textured face, cast masonry unit fences may be permitted.

18. All fences must be actively maintained throughout the life of the facility.

19. A sign not to exceed 12" x 16" in size will be securely attached to the fence at any entrance and two (2) other sides of the communication tower site. This sign shall provide the following information in a legible typeface and size:

- (A) Owner of facility
- (B) Operator(s) of facility
- (C) FCC license number for facility
- (D) Emergency phone contact number(s) (in bold text)
- (E) Locational information for facility
- (F) Local community emergency services number
- (G) Number for local building and zoning office
- (H) A warning to trespassers

20. The signs must be maintained, secured and legible and must be updated when any of the required information becomes obsolete.

21. The location of the signs shall be delineated on the site landscape plan.

22. The owner, applicant or his designee of the communications tower shall submit on an annual basis verification of all current FCC license(s) to that location, the name, address and emergency telephone number for the operator of all communication antennae, and certificate of insurance as provided at the initial application.

PART 5 [TO BE ADDED TO ZONING ORDINANCE AS A NEW SECTION RELATING TO "CONDITIONAL USES"]

Standards for Communications Towers as Conditional Uses.

1. The applicant shall be required to demonstrate, using technological evidence, that the tower or antenna must be situated at the location and height where it is proposed in order to satisfy its function in the applicant's grid system or coverage diagrams. The technological evidence must be provided with the initial application. The Township reserves the right, at its option, to have such demonstration reviewed by an independent professional Radio Frequency Engineer. All costs to be borne by the applicant as engineering review fees.

2. Every effort shall be made to locate the tower below the ridge line of mountains and hills while still preserving the site's usefulness.

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

4. The applicant shall submit a copy of the lease or other documentation evidencing that the owner of the property approves the siting of the tower, antenna, and other supporting equipment and the access provided to the site. All financial details of the lease may be omitted.

5. The Communications Tower Site shall be fully automated and unattended on a daily basis, unless emergency conditions prevail. Two reserved off-street paved parking spaces shall be required upon a Communications Tower Site.

6. 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.

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

8. 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-half (1/2) mile radius of the proposed Communications Tower site be contacted and that one (1) 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 the 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.

9. Access shall be provided to the Communications Tower Site by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be paved to a width of at least 10 feet for its entire length.

10. A Communications Tower Site may be located on a lot occupied by other principal Structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the Zoning District.

11. Site plans for all Communications Towers Site shall be submitted as a Land Development and shall comply with the Franklin Township Subdivision and Land Development Ordinance and will include a complete landscape plan prepared by a Pennsylvania registered Landscape Architect.

12. Recording of a plat of subdivision or land development shall be required for any parcel on which a Communications Tower Site is proposed to be constructed.

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

14. In all Zoning Districts, the maximum height of any Communications Tower shall be one hundred (100) feet; provided, however, that if the tower is replacing an existing communication tower structure such height may be increased to no more than the height of the existing tower structure or one hundred and fifty (150) feet, whichever is less, provided the required setbacks from adjoining property lines (not lease lines) are increased by one (1) foot for each one (1) foot of height in excess of the existing tower structure or one hundred (100) feet which ever is less.

15. The tower shall be set-back from adjacent property lines and existing buildings a distance equal to the maximum collapsible fall zone for the proposed tower as certified by a Pennsylvania registered engineer responsible for designing the proposed tower, plus 25 feet. At no time will the set-back be less than the existing set-back requirement or fifty (50) feet whichever is greater.

16. The base of a Communications Tower shall be landscaped so as to screen the fenced foundation, base and Communications Equipment Building from abutting properties.

17. The Communications Equipment Building shall comply with the required yards and height requirements of the applicable zoning district for an accessory structure.

18. 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 the Township's Building Code.

19. The applicant shall submit certification that the tower and its method of installation has been designed by a Pennsylvania registered engineer and is certified by that registered engineer to be structurally sound and able to withstand wind and other loads projected for the proposed site in accordance with the American National Standards Institute (ANSI) as amended, and other federal, state and local building regulations and accepted industry standards.

20. The applicant shall submit on an annual basis 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 \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Tower, Communications Antennas, and all elements of the Communication Tower Site.

21. 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 the fenced enclosure.

22. The Communications Tower Site including guy wires and Equipment Buildings shall be secured by a security fence with a minimum height of eight feet to limit accessibility by the general public, as described in section 348.

23. The following buffer plantings shall be located around the perimeter of the Communication Tower Site:

- (A) An evergreen screen shall be planted that consist of either a hedge, planted three feet on center maximum, or a row of evergreen trees planted ten feet on center maximum. The hedge shall be sized to reach a height of 48" and evergreen trees shall be sized to reach a height of 96" within 36 months of installation.

- (B) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (C) All planting and planting areas shall be actively maintained throughout the life of the facility.
- (D) A landscape plan prepared by a Pennsylvania registered Landscape Architect shall be submitted as part of the land development and or subdivision plan. This plan will become part of the final approved subdivision and or land development plans and will be recorded with the approved plans. This plan shall delineate planting areas, plant types, and sizes at installation, fencing type construction and finishes, as well as paved and lawn areas. The buffer planting will be maintained per the approved design as delineated in the recorded plans.

24. 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 which has jurisdiction, or related solely to the use of the Communication Tower.

25. All lighting, shall be shielded and reflected away from adjoining properties, except as required by the Federal Aviation Administration or other regulatory agencies.

26. Communication Towers shall be painted or camouflaged in such a way to minimize the visual impact on the surrounding landscape and to blend into the surrounding landscape.

27. Communication Towers shall be protected and maintained in accordance with the requirements of the Township's Property Maintenance Code, if any.

28. If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the Communications Tower within six (6) months of the expiration of such twelve (12) month period. Failing to do so, the Township may cause the same to be removed and charge the cost of the removal to the foregoing parties. In addition, the Township may file a municipal lien against the land to recover the cost of removal and attorney's fees. If the owner or operator plans to discontinue use of the facility, a copy of the notice to the Federal Communications Commission of intent to cease operations must be submitted to Franklin Township.

29. In order to reduce the number of antenna support structures needed in a community in the future any proposed new support structure shall be designed to

accommodate at least one (1) other user(s), including other communications company(ies) and local fire, police, ambulance and emergency service provider(s).

PART 6 **SAVINGS CLAUSE**

The provisions of the Township of Franklin Ordinances, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this ordinance, are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions of this ordinance shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

PART 7 **SEVERABILITY OF PARTS OF ORDINANCE**

It is hereby declared to be the intention of the Board of Supervisors that the chapters, parts, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable. If any section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining chapters, parts, sections, paragraphs, sentences, clauses or other phrases of this codification.

PART 8 **EFFECTIVE DATE**

This ordinance shall become effective in accordance with law.

ORDAINED AND ENACTED into an Ordinance and passed by the Franklin Township Board of Supervisors on this 6th day of October, 2003.

ATTEST:

BOARD OF SUPERVISORS OF
FRANKLIN TOWNSHIP


Township Secretary

By: 
Chairman

[SEAL]