

ORDINANCE NO. 2004-01

COVINGTON TOWNSHIP
LACKAWANNA COUNTY, PENNSYLVANIA

AN ORDINANCE TO AMEND THE COVINGTON TOWNSHIP ZONING ORDINANCE OF AUGUST 23, 1989 TO:

ITEM 1 – Add new definitions pertaining to Communication Towers

ITEM 2 – Change Article 4 Schedule of Uses for Communication Towers

ITEM 3 – Add a new Section 519 Communication Towers to the Ordinance

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Covington Township, Lackawanna County, Pennsylvania by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968 as reenacted and amended, know and cited as the "Pennsylvania Municipalities Code" as follows

The Covington Township Zoning Ordinance of August 23, 1989, as amended, is hereby further amended as follows:

ITEM 1
CHANGES TO ARTICLE III - DEFINITIONS

ADD the following new definitions:

ANSI/EIA/TIA 222: Latest edition of American National Standards Institute, Electronic Institute of America, Telecommunications Institute of America Standards.

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 antenna; or towers used for wireless communication.

Arrays: Any configuration of antenna elements or portions thereof on a single tower or co-location towers used to receive, transmit or enhance a radio frequency signal.

Co-location: The use of a single mount on the ground by more than one carrier (vertical co-location) and/or of several mounts on an existing building or structure by more than one carrier.

Communications Antennae: Any device used for the transmission or reception of radio, telephone, wireless telephone, pager, commercial mobile radio service, or any other wireless communications signals, including, but not limited to, 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 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: An unnamed building or cabinet containing communications equipment required for the operation of Communications Antennas and covering an area of the ground no greater than 400 square feet.

Commercial Communications Tower: A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antenna. This definition does not include any structure erected solely for a residential, non-commercial, individual use as television antenna, satellite dish, or amateur radio antennas

Communication Tower: Any Commercial Communication Device Support Structure; Commercial Communications Tower; Directional Antenna; Omnidirectional Antenna; Panel Antenna; Stealth Tower; Telecommunications Tower; Wireless Antenna; or Wireless Communication Facility constructed, established, owned or acquired by a commercial person or entity.

Decibel (dB): -- Ten times the logarithm to the base ten of the ratio of two power levels.

Directional Antenna: An antenna that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.

Environmental Assessment (EA): An EA is the complete documentation of the assessment required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) for a personal wireless service facility.

Equipment Shelter: An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

Fall Zone: The area on the ground within a prescribed radius from the base of an antenna support structure facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material. The fall zone shall be the tower height plus 20 percent.

FAA: Federal Aviation Administration

FCC: Federal Communications Commission.

Major Modification: Any increase or change in tower height, antenna height, number of antennas impervious coverage devoted to the wireless communication facility, or any other standard regulated by this ordinance.

Maximum Permissible Height: - The maximum height of a communications tower including all antenna, lightning rods, and other appurtenances.

Omnidirectional Antenna: A thin rod that serves as an antenna to transmit or receive radio frequency signals in a 360-degree radial pattern.

Panel Antenna: A flat surface antenna usually deployed in three directional "sectors" (0 to 120 degrees, 120 to 240 degrees, and 240 to 360 degrees) and used to receive or transmit radio frequency signals from or into that sector only.

Related Equipment: All equipment ancillary to the transmission and reception of voice and data via radio frequencies.

Security Barrier: A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Site Search Ring Analysis: A written report documenting the scope of the applicant's search for existing structures or property owners in preferred land use areas and the rationale for selecting the site proposed by the applicant.

Stealth Tower: Towers that are camouflaged in ways to minimize their visibility.

Telecommunications Tower: A structure other than a building that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers (including dish type), common-carrier towers, cellular telephone and wireless communications towers, alternative tower structures, and the like. Tower types include, but are not limited to guyed towers, wooden poles, lattice towers and monopoles.

Tower Height: The vertical distance measured from natural ground level to the highest point on a Communications Tower, including antennas mounted on the tower. If the tower is located on a sloped grade, then the average between the highest and lowest grades shall be used in the calculation of tower height. This includes the definition of Commercial Communication Device Support Structure Height.

Tower Permit: Written permission from the Township to construct or maintain a Communications Tower in the Township.

Wireless Antenna: -- Usually in the form of a vertical "mast (or tube)", a flat panel, or dish which is the transmitter/receiver portion of a wireless base station.

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

ITEM 2 CHANGES TO ARTICLE IV – SCHEDULE OF USES

Any Communication Tower shall be a Conditional Use in the M-1 Manufacturing District, the C-2 Highway Commercial District and the SC Special Conservation District.

ITEM 3 ADD NEW SECTION – 519 COMMUNICATION TOWERS

The placement of a Communication Tower in the Township shall be governed by this Section. A Communication Tower may be allowed provided such use shall not adversely affect the character of the immediately surrounding neighborhood through negative visual impact, as determined at the Conditional Use Hearing.

Before a new Communications Tower is permitted, any existing site(s) must be utilized to co-locate the new Array. The applicant shall have the burden of proving that there are no feasible existing structures or towers upon which to locate the applicant's Array.

519.1 Communication Tower Design

Communication Tower design and construction shall be such as to meet all expected needs within the next 25 years and designed to support at least five additional Arrays. All Communication Towers constructed shall be designed for and considered to be co-location towers. Communication Tower design, material specifications, load/wind capacity shall be certified to meet the latest revised ANSI/EIA/TIA 222 standards. Any changes, other than routine maintenance shall require Township approval by the Planning Commission and the Board of Supervisors.

Communication Towers shall not exceed the height for FAA limitations on lighted towers above the average terrain level, including those placed on top of structures. For Communication Towers placed on buildings or other structures such as towers, water tanks, utility poles, etc., the maximum height shall be no more than 50 feet above the average height of trees or buildings within 300 feet of the site, which ever is the lesser. Electrical service to free standing towers shall be by underground means. Monopole shall be the preferred tower in the Township.

A maximum of six (6) arrays shall be allowed on a Communication Tower.

519.2 Communication Tower Site

All Communication Tower sites must be located a minimum of 200 feet away from any residence, school, church or public building, except in those situations where the tower is located on top of a public building.

Property line set back fall zones are required and shall be equal to 120 percent of the height of the tower and any attachments. The Fall Zone shall be deemed to be met if the tower is located on an existing public building that has sufficient open space surrounding it to meet Fall Zone requirements and it is determined that sufficient additional safety measures are in place. Additional safety measures shall be deemed a condition of approval.

Access to the Communications Tower site by vehicular traffic shall be such as to also allow access by fire trucks and emergency vehicles. When access is not by a public street, the minimum width of an easement for access shall be 25 feet.

The recommendation of the Township Planning Commission regarding the proposed Communication Tower site shall be submitted to the Board of Supervisors prior to the Conditional Use hearing request being submitted to the Board by the applicant.

519.3 Tower Security

The tower area, including tower guy wires, shall be secured by an eight-foot high chain link fence that completely encloses the Communications Tower and guy wires.

519.4 Minor Subdivision

When a Communications Tower site is leased for a period of years, with renewal rights, the leased land will not constitute a subdivision from a larger parcel, and will not require minor subdivision approval. If title to a site is to be transferred at the time of application to construct a tower and the site is part of a larger parcel, a approval of a minor subdivision is required. Water, other than for facility cooling purposes, and sewage facilities shall not be permitted at tower sites to preclude person(s) from living or staying on the site. Should an existing structure with water and sewage facilities be utilized as a tower base, then said facilities shall be allowed. Maintenance people are expected to leave the site at the end of any work day.

519.5 Communication Tower Construction

Construction of communication towers shall meet the following minimum criteria:

a. Certification signed and sealed by a professional engineer, licensed in Pennsylvania, documenting that the Communication Tower will withstand the maximum wind loads known to have impacted, or reasonably anticipated to impact the Township, at maximum anticipated ice and snow loads.

b. Communication Towers to be placed on existing structures or buildings shall require engineer certification that the tower will not cause the structure to which it will be attached to fail.

c. The Communication Tower design will be such as to minimize visual impact on the surrounding neighborhood. The tower will be kept painted so as to be less noticeable and properly maintained. Stealth Towers are recommended and may be required by the Township if the site will adversely affect the surrounding or nearby residential community view. No sign advertising or exterior lighting to illuminate the tower shall be allowed, other than safety lighting required by the FAA or other government agency.

d. Communication Tower electrical grounding shall exceed the minimum standards in effect at the time of application. The Township Engineer shall make the final approval of the grounding.

e. A maximum of six (6) arrays shall be constructed on a Communication Tower.

519.6 Tower Inspections

The operator of a communications antenna, tower or equipment building shall be required to submit annual inspection reports to the Township Zoning Officer which shall include an engineer certification of structural integrity, continued compliance with FCC emission standards and compliance with other applicable municipal, state and federal regulations.

519.7 Site Survey Map

A survey map showing the following information shall be submitted at the time of application to the Planning Commission.

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 site with Deed book reference, and the landowner(s) all adjoining properties Deed Book references.

c. North arrow and map scale.

d. Dimensions of properties and 10-foot contour lines.

e. Access to proposed site by vehicular traffic if the proposed site does not abut a public right of way.

f. Communication Tower height, location and placement of all ancillary improvements.

g. Distance to and location of nearest public road(s).

h. Building locations (within 300 foot radius) with designations (residence, school, etc.)

i. Location of grounding grid.

j. Fall zone and chain link fence or other security barrier location.

k. Approximate location of proposed underground electrical service from existing power company lines.

l. The signal propagation pattern, to include horizontal and vertical planes, and pre and post construction R F map.

m. Required set back lines for the zone in which the tower site is located.

n. The maximum size of any initial or proposed horizontal extensions of antennas, support structures or arrays shall be shown on separate drawings. This is deemed necessary to preclude any potential overhanging of set back lines.

519.8 Notification of Problems

Maintenance of the Communication Tower shall be monitored by the Township through the Zoning Officer. There shall be affixed to the Security Barrier in an accessible, visible place the name and mailing address of the owner(s) and a 24 hour emergency telephone number. This address shall be kept current by the owner(s). The Zoning Officer shall inform the owner(s) of safety problems, maintenance problems or any matter relative to the Communication Tower in accordance with Section 606 of the Zoning Ordinance, sent to the address on the Security Barrier. If the problem outlined in the letter from the Zoning Officer is not resolved within 30 days of receipt of notice, or within such other period as allowed in writing by the Zoning Officer, this shall constitute a violation of the Zoning Ordinance and Section 607 of the Zoning Ordinance shall apply. An unresolved violation shall constitute grounds for revoking the Tower Permit.

519.9 Permits

The Planning Commission shall recommend approval or disapproval of an applicant's Communication Tower application, plans and Site Survey Map. The Supervisors shall then have 60 days from the date of the meeting of the Planning Commission to hold the Conditional Use hearing.

Upon approval of a tower application and payment of all applicable fees, a Tower Permit will be issued by the Township. A bond in form and amount satisfactory to the Township will be required to guarantee tower removal, with a minimum face amount of \$100,000. This must be valid for the 10 year period of the Tower Permit, and it must be received and approved by the Township before the Tower Permit will be issued. A building permit will also be required for initial construction of the Communications Tower.

The Tower Permit will be valid for 10 years from the date of issue unless sooner revoked for violations of the Zoning Ordinance. Application for renewal of a Tower Permit may be made at the end of every 10 year period. The application for renewal shall be made in writing to the Zoning Officer, who will present the renewal application to the Board of Supervisors. The Board of Supervisors may approve the renewal by resolution, or the Board may require a Conditional Use hearing on the application for renewal. Tower Permit renewal will require payment of the prescribed fee.

Should the Township revoke the Tower Permit for violations of the Zoning Ordinance, the date of the revocation will start a 180 day period of shutting down the use of the Communications Tower. The Township may require the removal of the Communications Tower, the Security Barrier, the Equipment Shelter and Related Equipment after 180 days have passed, as required in the removal agreement executed by the applicant. This removal must then be completed within 60 days

After the initial, approved construction, each additional Array added to the Communications Tower shall be done by application to the Zoning Officer, who shall approve the addition of the new Array. The placement of the Array shall be at the height on the Communication Tower where the weight capacity of the Communication Tower can accommodate the new Array.

519.10 Fees

The Fees applicable to Communication Towers shall be set by the Board of Supervisors in a Fee Schedule listing fees for the Township. The Board of Supervisors may change this Fee Schedule and the fees applicable to Communication Towers from time to time.

The applicant shall deposit with the Township an amount to reimburse the Township for professional fees incurred by the Township in evaluating the application for the Tower Permit. This amount shall be in addition to aforementioned fees.

519.11 Zone Requirements

The requirements of the Zoning District in which the proposed Communication Tower is to be located shall apply to the construction and maintenance of the Communication Tower, and these may be considered by the Board of Supervisors in the Conditional Use hearing and by the Planning Commission in its recommendation.

Any application that places a Communications Tower in a non-permitted District will require a variance from the Zoning Hearing Board.

519.12 Application

The Application to construct a Communication Tower in the Township shall be made to the Zoning Officer on a zoning permit form. The Zoning Officer will forward the application, when complete, to the Township Planning Commission. The following information will be included with this application.

- a. Identification of the applicant, the owner, the owners of Arrays on the Communication Tower, with copies of applicable current FCC licenses for all parties in interest.
- b. A Site Survey Map as outlined in Section 519.7.
- c. Visual impact analysis (stealth towers recommended.)
- d. Environment assessment, to include a complete copy of Phase I report and supporting documentation.
- e. Statement as to what Related Equipment, including equipment enclosures/shelters, will be located on site. Backup power from on-site generators is not permitted.
- f. Drawing of proposed tower and pictures of similar existing tower from other locations, to include proposed accessory buildings or structures.
- g. Drawing of the Communication Equipment Building, the Security Barrier and proposed ground screening by shrubbery, plantings, etc. for these structures.
- h. Site search analysis to include scope of applicant's search for existing structures, sites in preferred land use areas and the rationale for selecting the proposed site.
- i. Statement that the Communication Tower design will accommodate six (6) Arrays.
- j. A Removal Agreement signed by the owner stating that the tower will be removed within 180 days of cessation of use. This must be notarized or bear a corporate seal. The Removal Agreement must state that the owner(s) shall remove all foundations, all surface structures or devices, restore the surface of the site back to the contours that existed prior to the development of the site and seed the site.

k. Statement by a PA engineer as to the noise levels emanating from existing installations of the type proposed, to include decibels of sound and frequencies heard at various distances and at the tower base.

l. Proof of compliance with applicable FCC, FAA, Commonwealth Bureau of Aviation, and other state and local rules and regulations that apply to the Communications Tower.

m. A Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the proposed Communications Tower, related structures and site, and an additional umbrella policy in the amount of \$10,000,000 covering the same items, both having the Township name as an additional, insured party. This must be maintained for the duration that the Communications Tower is erected in the Township, and both policies must have clauses that give 30 days notice to the Township before coverage under the policies cease.

519.13 Scope

This Section 519 of Article IV is intended to regulate all types of telecommunication services including functionally equivalent services such as, but not limited to, cellular, personal communication, enhanced specialized mobile radio, specialized mobile radio and paging that require some form of tower or signal enhancing structure.

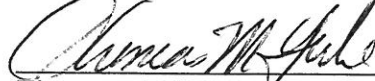
The provisions of this Ordinance are severable. If any article, clause, provision or portion of this Ordinance shall be held to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Covington Township that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, or section had not been included herein.

Wherever there exists a difference between the minimum standards and/or dimensions specified herein and those contained in the Zoning Ordinance or other official regulations, the highest and strictest standards shall apply.

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

ORDAINED AND ENACTED into law by the Board of Supervisors of Covington Township this 2ND day of MARCH, 2003. 4

BOARD OF SUPERVISORS OF
COVINGTON TOWNSHIP



Thomas M. Yerke, Chairman

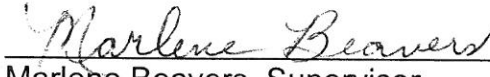


William Willson, Vice-Chairman

David Petrosky, Supervisor

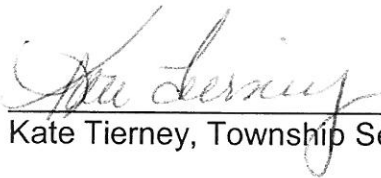


Charles Lindner, Supervisor



Marlene Beavers, Supervisor

ATTEST:



Kate Tierney, Township Secretary