

APPENDIX II

TO SUMMIT TOWNSHIP

ZONING ORDINANCE 1992-05

TO

INCLUDE PROVISIONS RELATING TO

ANTENNA STRUCTURES

Adopted December 3, 1997
Amended October 5, 1998
Amended August 2, 1999
Amended February 3, 2003

AN ORDINANCE AMENDING THE SUMMIT TOWNSHIP'S ZONING
ORDINANCE TO REGULATE THE PLACEMENT, HEIGHT, SUPPORT STRUCTURE,
SETBACKS, FENCING, LANDSCAPING, AND OTHER REQUIREMENTS; AND
ESTABLISHING REMEDIES AND PENALTIES FOR VIOLATIONS THEREOF OF
ANTENNA SUPPORT STRUCTURES AND ANTENNAE.

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

WHEREAS, the Summit Township Supervisors recognize that the Summit Township, 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 Summit Township Supervisors therefore desire to encourage efficient and adequate wireless communication services within the Summit Township 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 interest of its residents, the Summit Township Supervisors desire to regulate the construction and the placement of antennae, antennae support structure and antennae equipment building; and

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

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

NOW THEREFORE, Summit Township Supervisors ordains that the Zoning Ordinance shall be amended as follows:

Section 1 - Purpose.

In recognition of the quasi-public nature of personal wireless service facilities, the purpose of this Article is as follows:

- A. To accommodate the need of personal wireless service antennae while regulating their location and number in the Township.
- B. To minimize adverse visual impact and effects of personal wireless service antennae, antenna support structures and antennae equipment buildings through proper design, siting, and vegetative screening.
- C. To avoid potential damage to adjacent properties from antenna support structure failure and falling ice or debris, through engineering and proper setting of antenna support structures.

D. To encourage the joint use of any new and existing antenna support structures to reduce the number of such structures needed in the future.

E. To encourage the joint use of any existing buildings to reduce the number of such structures needed in the future.

F. To ensure that the location and number of personal wireless facilities are in the best interests of the health, safety, welfare, and morals of the residents of the Township.

G. To minimize any adverse affects of location and design of personal wireless facilities on residential property values.

H. To minimize any adverse affects of location and design of future development on residential property values in the Township.

Section 2 - Definitions.

The following words and phrases when used in this Ordinance shall have the meaning given to them in this Section unless the content clearly indicates otherwise:

A. **"Alternative Tower Structure"** means man-made trees, clock towers, tall steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennae on towers.

B. **"Antenna"** means any structure or devise used to collect or radiate electromagnetic waves, including both directional antennae (such as panels) and omnidirectional antennae (such as whips) but not including satellite earth stations and 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 omnidirectional or whip antennae and directional or panel antennae, 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 antennae or amateur radio equipment including without limitation ham or citizen band radio antennae.

C. **"Antenna Equipment Building"** means an unmanned building or cabinet containing communications equipment required for the operation of Communications Antennae and covering an area of ground not greater than 250 square feet.

D. **"Antenna Height"** means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. 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.

E. **"Antenna Support Structure"** means any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

F. **"Common Carrier"** means any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio, or in interstate or foreign radio transmission of energy, but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

G. **“Communication Building”** means any structure or building used for or containing equipment primarily used for the transmission, reception or switching of radio, television, wireless telephone, pager, commercial mobile radio service, weather radar, or any other wireless communication signals for other personal wireless services. Communications Building shall not include antenna, antenna equipment building as defined in this ordinance.

H. **"Height of a Antenna Tower"** means the vertical distance measured from the ground level to the highest point on a Communications Tower, including antennae mounted on the tower.

I. **"Monopole"** means an antenna support structure consisting of a single pole or spire constructed without guy wires or ground anchor.

J. **"Personal Wireless Service Facilities"** means facilities for the provision of personal wireless services.

K. **"Personal Wireless Services Site"** means a tract or parcel of land that contains a personal wireless service antenna as the principal use, its support structure, accessory building(s), parking, and may include other uses and equipment associated with and ancillary to telecommunication signal transmission or processing.

L. **"Personal Wireless Services"** include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

M. **"Township Consultant"** means an expert hired by the Township through appropriate resolution to review applications, annual reports and other necessary tasks in relation to this Ordinance.

Section 3 - Permitted Use Regulations.

A. Antennae attached to a pre-existing personal wireless facility, smoke stack, water tower, or any other similar structure is a permitted use in all zoning districts. If the antenna is to be mounted on any such existing structure, the applicant shall be required to comply with all requirements and performance standards in Sections 5 and 6.

B. In I-1 Industrial District located adjacent to I-90 or I-79, antennae with antennae structure and antennae equipment building are permitted uses. Applicant shall comply with all requirements and performance standards in Sections 5 and 6.

Section 4 - Special Exception Use Regulations.

A personal wireless facility with antenna, antennae tower structure and antennae equipment building that is not to be mounted on a pre-existing personal wireless facility, smoke stack, water tower, or any other similar structure in any B-1 and B-2 Business District, A-1 Agricultural District and I-1 Industrial District not adjacent to I-90 or I-79 is permitted in such zoning districts as a special exception use. The Zoning Hearing Board may grant a special exception use after a public hearing before the Zoning Hearing Board. The applicant must provide and establish the following criteria:

A. That there is not suitable space on existing personal wireless service facilities or other personal wireless service facility sites or on other similar structure where the intended personal wireless service facility can be accommodated and functions are required by its construction permit or license without unreasonable modification.

B. That there are no suitable sites in the zoning districts where a personal wireless facility is a permitted use.

C. Presenting technological evidence that the personal wireless facility must go where it is proposed in order to satisfy its function in the grid system and the providing of the quality of service required by law.

D. In an A-1 area any antennae and antennae support structure shall be 1,500 feet from any dwelling.

E. The Zoning Hearing Board may authorize antennae, antennae structures and accessory buildings if the Zoning Hearing Board determines that all criteria and performance standards of this ordinance and other applicable ordinances have been met and subject to such conditions as the Zoning Hearing Board shall impose.

Section 5 - Application Requirements.

All applicants are required to submit the following:

- A. Written authorization from the property owner of the proposed tower site.
- B. A site plan:
 - 1. Drawn to scale of not smaller than 100 feet to one inch.
 - 2. Showing the property boundaries and lease boundaries (if applicable).
 - 3. Showing any tower guy wire anchors and other apparatus.
 - 4. Existing and proposed structures.
 - 5. Scaled elevation view of proposed structures.

6. Access road(s), location and design standard as set forth in this Ordinance.
7. Parking area in accordance with Section 6.
8. Fences in accordance with Section 6.
9. Location and content of any signs including warning signs.
10. Exterior lighting specifications in accordance with Section 6.
11. Landscaping plan in accordance with Section 6.
12. Land elevation contours not greater than intervals of five (5) feet.
13. Existing land uses surrounding the site.
14. Proposed transmission building and/or other accessory uses.
15. Proposed use.
16. Adjacent landowner's names and addresses and location of all buildings on adjacent property with dimensions from antennae support structure and antennae equipment buildings.

C. A written report or other documentary information including:

1. Information describing the tower height and design.
2. A cross-section of the structure.
3. Engineering specifications detailing construction of tower, base, and guy wire anchorage.
4. Information describing the proposed painting and lighting schemes.
5. Information describing the tower's capacity, including the number and type of antennae that it can accommodate.
6. Radio frequency coverage.
7. All tower structure information to be certified by a licensed Professional Engineer.

8. Personal wireless service facilities data to be certified by an engineer learned in personal wireless service facility.
9. Inventory of existing antenna support structures within a one (1) mile radius of the proposed site and information discussing unavailability of such sites for one or more of the following reasons:
 - (a) Refusal by current tower owner.
 - (b) Topographic limitations.
 - (c) Adjacent impediments blocking transmission.
 - (d) Site limitations to tower construction.
 - (e) Technical limitations of the system.
 - (f) Equipment exceeds structural capacity of facility or tower.
 - (g) No space on existing facility or tower.
 - (h) Other limiting factors rendering existing facilities or towers unusable.
 - (i) An update of capacity on an existing tower.

D. Applicant shall comply with all other applicable Township Ordinances and shall be considered a developer and enter into a Developer's Agreement with the Township.

Section 6 - Performance Standards of Approval of all Personal Wireless Service Facilities.

All antennae and personal wireless facilities shall comply with the following performance standards:

A. Alternative Structures. If the applicant proposes to build an antenna support structure (as opposed to mounting the antenna on an existing structure), the applicant is required to demonstrate that it contacted the owners of other personal wireless service facilities or other similar structures within a one (1) mile radius of the site proposed. This would include

smokestacks, water towers, antenna support structures of other personal wireless service companies, other communications towers (fire, police, etc.), and other similar structures. The Zoning Hearing Board or Zoning Officer may deny any application to construct a new antenna support structure if the applicant has not made a good faith effort to mount the antenna on an existing structure. A good faith effort shall require that all owners of potentially suitable structures within a one (1) mile radius be contacted and that one (1) or more of the following reasons for not selecting such structure apply:

- (1) The proposed antennae 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 antennae 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 allow it to perform its function.
- (4) Addition of the proposed antennae and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communication Commission governing human exposure to electromagnetic radiation.
- (5) A commercially reasonable agreement could not be reached with the owners of such structures.

B. Ancillary uses. All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, (etc.) are prohibited from the personal wireless service facilities site unless otherwise permitted in the zoning district in which the personal wireless service facilities is located.

C. Antenna height. The applicant shall demonstrate that the antenna support structure and antenna are the lowest height required to function satisfactorily. No antenna support structure and antenna that is taller than this minimum height shall be approved.

D. Maximum height. In all Zoning Districts, the maximum height of any Antennae and Antenna Support Structures shall be two hundred (200) feet.

E. Setbacks from base of antenna support structure. If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure), the minimum distances between the base of the support structure or any guy-wire anchors and any property line or right-of-way line shall be one hundred percent (100%) of antenna and antenna structure height. Any antennae and antennae structure shall be a minimum of 2,500 feet from any existing antennae and antennae structure. If the property adjacent to the proposed antennae and antennae structure site is entirely encompassed within the 2,500 foot distance, the applicant must acquire permission from said adjacent landowners to construct antennae and antennae structure and provide a copy of the consent with the site plan. If the proposed property is located adjacent to a residential zoned property, the setback from said residential zoned property line shall be 1,500 feet.

F. Type of support structure. Except as hereinafter provided in all cases, monopole antenna support structure shall be required. The Zoning Hearing Board may grant use of guy wire, free standing, or any other type of antenna support structure as special exception use after review by the Planning Commission and a public hearing before the Zoning Hearing Board. The applicant must establish the following for approval of the special exception use:

- (1) Cost of erecting a monopole would preclude the provision of adequate service to the public, or erection of a safe antenna support structure.
- (2) The proposed antenna structure would have the least practical adverse visual impact on the environment and closely resembles a monopole.
- (3) The proposed antenna support structure is architecturally compatible with surrounding buildings and land use through location and design and blends with the existing characteristics of the site to the extent practical.

G. Antenna support structure safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

H. Fencing. A fence shall be required around the antenna support structure, accessory buildings(s), and other equipment unless the antenna is mounted on an existing structure. The fence shall be a minimum of six (6) feet in height and a maximum of eight (8) feet in height, shall completely enclose the antenna, support structure, and related facilities, shall not contain openings greater than nine (9) square inches and shall contain, at all entrances, gates which shall be locked except during such times as the site is manned by authorized operations or maintenance personnel.

I. Landscaping. The following landscaping shall be required to screen as much of the antenna support structure as possible, all required fencing, and any other ground-level features (such as a building), and in general soften the appearance of the personal wireless service facility site. The Township may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure and other equipment is housed inside an existing structure, landscaping shall not be required.

(1) The screen can be either a hedge [planted (3) feet on center maximum] or a row of evergreen trees [planted ten (10) feet on center maximum]. The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.

(2) In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

J. FCC license. The applicant must demonstrate that it is licensed by the Federal Communications Commission.

K. Required parking. The site shall provide two (2) parking spaces.

L. Color and lighting. Antenna support structures shall be painted in a color that best allows it to blend into the surroundings unless otherwise required by the Federal Aviation Administration (FAA) regulations. The use of grays, blues, and greens may be appropriate; however, each case should be evaluated individually. No antenna support structure

may be artificially lighted except when required by the FAA. Except as hereinafter provided, in all cases, monopole antenna support structure shall be required.

M. Visual impact. Personal wireless service facilities shall result in a minimal visual impact for those residents in the immediate area and for those in the larger community who view these facilities from a distance. Minimal visual impact shall include the following:

- (1) For facilities located in highly developed portions of the Township, buildings may be used to accomplish the screening noted above.
- (2) It is acknowledged that large, multi-use towers located within major use transmission areas cannot be effectively screened. In order to minimize the visual impact, such new facilities should be located in close proximity to other comparable structures. Accompanying buildings, ground-mounted antennae, and other equipment and structures should be subject to screening recommendations.
- (3) FAA requirements for coloring and lighting of towers supersedes Township requirements for visual minimum impact.
- (4) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

N. As-Built plans. Within sixty (60) days of completion of the initial construction and any additional construction, applicant shall furnish two (2) complete sets of plans, drawn to scale and certified to the Township as accurately depicting the location of personal wireless service facility constructed pursuant to the building permit.

O. Removal. Any antenna support structure that is no longer in use for its original communications purpose, in essence antennae that are no longer receiving transmissions, shall be removed at the owner's expense. The owner shall provide the Township with a copy of

the notice to the FCC of intent to cease operations and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete antenna support structure and accessory structures. In the case of multiple operators sharing use of a single tower, the removal shall be completed ninety (90) days after all users cease operations. The equipment on the ground is not to be removed, however, until the antenna support structure has first been dismantled and removed. The owner shall provide a performance bond or other acceptable financial security in the amount of 25% of the cost of original construction of the antennae, antennae structure and antennae equipment building for removal of the antennae and antennae support structure and antennae equipment building. The Township has the ability to increase the amount of the performance bond or other acceptable financial security by appropriate resolution of the Township Supervisors.

P. Inspection. Beginning in December of 1999 and by December of each odd numbered year thereafter, the antenna support structure shall be inspected by an expert, who is hired by applicant or subsequent owner, and who is regularly involved in the maintenance, inspection and/or erection of antenna support structures. At a minimum, this inspection shall be conducted in accordance with the Tower Inspection Class Checklist provided in the Electronics Industries Association (EIA) Standard 222 "Structural Standards for Steel Antenna Towers and Antenna Support Structures." A copy of said inspection report shall be provided to the Township. At the time said report is provided to the Township, applicant shall pay a fee for processing of these reports by the Township's consultant and review in the amount as the Board of Supervisors shall determine from time to time as set forth in an appropriate resolution.

Q. The antennae and Antenna Support Structure shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation, Federal Communications Commission and applicable Airport Zoning Regulations. The antennae and antennae support structure shall not be placed within one mile of a public or private airport nor shall any antennae or antennae support structure be placed in the glide path of any public or private airport whichever is greater.

R. Access shall be provided to the antennae and Antennae Support Structure and Antenna Equipment Building 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 improved to a width of at least 10 feet with a dust-free, all weather surface for its entire length.

S. 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 antennae; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and proper damage coverage in the minimum amount of \$1,000,000 per occurrence covering the antennae and Antenna Support Structure and Antenna Equipment Building.

Section 7 - General Repeal.

All ordinances or parts of ordinances including Ordinance 400.26, together with any amendments and supplements thereto are repealed to the extent necessary to give this Ordinance full force and effect. Antennae and Antennae Support Structure are excluded from Height Restriction Ordinance 604.

Section 8 - Severable by Law.

The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision not been included herein.

Section 9 - Effective Date.

This Ordinance shall become effective immediately upon enactment.

ENACTED AND ORDAINED into an Ordinance this 3rd day of December, 1997.

- Amended October 5, 1998 – Section 400.26
- Amended August 2, 1999 – Section 2, Definition of Communication Building
- Amended February 3, 2003 – Section 5 B.2 “*and lease boundaries (if applicable)*”

SUMMIT TOWNSHIP


Secretary

#222361