

96 - 2001

**AN ORDINANCE OF THE TOWNSHIP OF HONEY BROOK,
CHESTER COUNTY, PENNSYLVANIA ADOPTING
REGULATIONS REGULATING CELLULAR COMMUNICATION
FACILITIES TO BE LOCATED WITHIN HONEY BROOK
TOWNSHIP**

BE IT ENACTED AND IT IS HEREBY ENACTED by the Board of Supervisors of Honey Brook Township that the following text of an ordinance dealing with cellular communications attached as Exhibit "A" hereto shall hereby be and is hereby adopted by Honey Brook Township as an addition to the Honey Brook Township Zoning Ordinance.

All ordinances or provisions of ordinances inconsistent herewith are hereby repealed.


If any sentence, clause, section, or part of this ordinance is found for any reason to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared, as the intent of the Board of Supervisors, that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

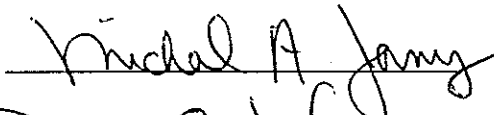
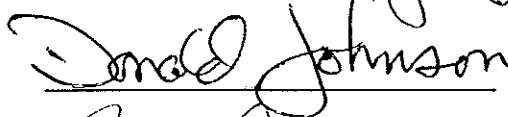
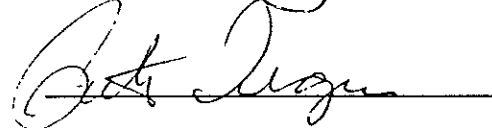
This ordinance shall become effective immediately upon enactment as provided for by law.

ENACTED AND ORDAINED this 18th day of September, 2001.

ATTEST:

**HONEY BROOK TOWNSHIP
BOARD OF SUPERVISORS**


Secretary

**HONEY BROOK TOWNSHIP ZONING ORDINANCE
NO. 96**

EXHIBIT "A"

1. Add the following terms and definitions to Section 202. Definitions:

Communications antenna. Any device used for the transmission of radio, television, wireless telephone, pager, commercial mobile radio service, or any other wireless communications signals, including without limitation omnidirectional or whip antenna 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 limitations ham or citizen band radio antennas.

Communications equipment building. An unmanned building or cabinet containing communications equipment required for the operation of communications antennas.

Communications tower. A structure other than a building, such as a lattice tower, monopole tower, or other self-supporting tower designed and used to support communications antennas. The height of a communications tower shall be the vertical distance measured from the base of the tower to the highest point of the tower structure, including any antenna affixed thereto.

DBH. The diameter of a tree at breast height, usually measured 3.5 feet from the ground surface.

2. Add a new use by special exception to the following sections: 302.3-g [Agricultural District], 402.1-c [R-1 District], 403.1 [R-2 District], 501.2-g [NC Neighborhood Commercial District], and 602.3-b [IP Planned Industrial-Office District]:

"Communications towers, antennas, and equipment, as defined in this Ordinance and as noted in Section 901.30 herein."

3. Add new Section 901.30 to Article IX to read as follows:

901.30 Communications Towers, Antennas, and Equipment

- a) Communications antenna. A communications antenna attached to or mounted on an existing public utility building, structure, or pole, existing communications tower, water tower, silo, or other non-residential building or structure is permitted when approved as a special exception by the Zoning Hearing Board, following review and recommendation by the Planning Commission, if the height of the antenna does not exceed the height of the existing structure by more than ten (10)

- feet. Any such antenna shall be constructed to simulate the architectural façade and/or color of the building or object to which it is attached, and shall comply with the Honey Brook Township Building Code and all other applicable requirements.
- b) Communications tower. A communications tower may be constructed on ground, the natural existing elevation of which is eight hundred fifty (850) feet or more above sea level, when approved as a special exception by the Zoning Hearing Board, upon recommendation by the Planning Commission, in accordance with the terms of this section. Height of the communication tower shall not exceed one hundred fifty (150) feet.
 - c) Communications equipment building. A communications equipment building may cover no more than three hundred fifty (350) square feet of ground. The applicant shall locate as much of the associated equipment below the ground surface as feasible.
 - d) Notification of property owners. An applicant seeking to construct, relocate, or alter a communications tower and/or antenna shall file a written certification with the Zoning Hearing Board that all property owners within a one thousand (1,000) foot radius of the proposed site have been notified by the applicant, in writing by certified (return receipt) and regular mail at least fourteen (14) days prior to the date of the hearing, of the applicant's proposed construction, relocation, or alteration. The certification shall contain the name, address, and tax parcel number of each property owner so notified. Such notice also shall contain the date, time, and place of the public hearing at which the applicant shall appear.
 - e) Prohibited uses. All other uses ancillary to the tower, antenna, and/or communications equipment building (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the antenna or tower site unless otherwise permitted in the zoning district in which the site is located, in which case the area and bulk requirements for such use in that district shall be applicable.
 - f) Personnel and parking. Except where ancillary uses are permitted in the zoning district in which the site is proposed, the communications tower and/or antenna shall be fully automated and require only occasional or periodic on-site attention from maintenance or operational personnel. Unless specifically required for the ancillary use, off-street parking at the site shall not exceed two spaces.
 - g) Site plan. A full site plan shall be required and shall accompany the application for special exception for any communications facility, showing all existing and proposed improvements, including but not limited to proposed antennas, tower, structures, fencing, buffering, and ingress and egress. The plan shall comply with the requirements for a preliminary plan under the Township Subdivision and Land Development Ordinance.

- h) Standards for review of special exception requests. In addition to the applicable requirements of this section and other sections of the Ordinance, the Zoning Hearing Board shall review a special exception request to construct a communications antenna or tower and only approve same if the following standards are complied with.
- 1) Subject also to the height limitation for a communications tower, as defined, the applicant shall demonstrate that the proposed communications tower and/or communications antennas proposed to be mounted thereon is/are 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 applicant's communications tower at greater height than the applicant requires.
 - 2) The applicant must demonstrate that the distance between the communications tower, including all supporting equipment and structures, and any property line or right-of-way shall be greater than or equal to the height of the communications tower. These setback requirements may be modified by the Zoning Hearing Board if it finds that placement of a communications tower and/or antenna in a particular location will reduce its visual impact.
 - 3) The applicant shall provide a plan prepared by a landscape architect showing landscaping to be installed to screen and buffer as much of the support structure as possible. Vegetative screening material shall be evergreen, balled and burlapped, and shall be a minimum of six (6) feet in height at the time of installation and capable of reaching a minimum height of thirty (30) feet at maturity. The landscape plan may incorporate existing features where appropriate.
 - 4) Existing vegetation on and around the proposed site shall be preserved to the greatest extent feasible. Removal of any tree of one foot dbh or greater shall require approval from the Zoning Hearing Board, and such approval shall be granted only upon demonstration by the applicant that such removal is reasonably required to clear an area for construction of the tower.
 - 5) In order to reduce the number of communication towers needed in the Township in the future, the applicant shall demonstrate that the proposed communication tower shall be designed to accommodate other users, including other cellular communications companies and/or local police, fire, and emergency responders.

- 6) No communications tower, antenna, or equipment building may be lighted except when required by the Federal Aviation Administration (FAA).
- 7) The applicant shall provide for a removal bond, in an amount deemed appropriate by the Zoning Hearing Board, to assure that proper security is provided to accomplish removal of the communications tower and/or communications antennas if the permitted communications use is abandoned, as required in Section 901.30-m.
- 8) The applicant shall provide with its application to the Zoning Hearing Board:
 - (a) a copy of its current Federal Communications Commission (FCC) license;
 - (b) where a communications antenna is proposed to be mounted on a structure owned by a party other than the applicant, the current name, address, and emergency telephone number of the owner or operator of the structure;
 - (c) a certification signed by a duly authorized officer of the applicant providing that, after due inquiry, the information being supplied is true and correct to the best of his knowledge, information, and belief; and
 - (d) copies of all applicable federal regulations with which it is required to comply and a schedule of estimated FCC inspections.
- 9) The applicant shall present a certificate of insurance, issued to the owner/operator of the communications tower and/or antennas, evidencing that there is adequate current liability insurance in effect insuring against liability for personal injuries and death and property damage caused by communications facilities.
- 10) Communications towers and/or antennas shall either have a galvanized finish or be painted silver or other colors, such as green and blue, or a combination thereof (e.g., painted green up to the height of nearby trees and the remainder blue or blue gray to blend with the sky), as shall be required and approved by the Zoning Hearing Board. All such facilities, including associated equipment, shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like façade to blend with the existing surroundings and neighborhood buildings to the greatest extent feasible.

- 11) No sign or similar structure shall be mounted on a communications facility, except as may be required by the FCC, FAA, or other governmental agency.
- 12) In the event that a communications antenna is attached to an existing structure, vehicular access to the antenna and any accessory equipment shall not interfere with the parking or vehicular circulation on the site for the existing principal use.
- i) Structural standards. Prior to issuance by the Township of a permit authorizing construction and erection of a communication tower, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the tower's ability to meet the structural standards of either the Electronic Industries Association or the Telecommunication Industry Association, including but not limited to the ability of the tower to withstand wind gusts of 100 mph. Further, the engineer shall certify the proper construction of the foundation, adequacy of the soils relative to the design of the foundation and location of any guy wires, and the erection of the tower.
- Where antennas are proposed to be attached to an existing structure, such engineer shall certify that both the structure and the antennas and their appurtenances meet the minimum industry standards for structural integrity.
- The certifications required by this section shall constitute a condition of any special exception approval granted by the Zoning Hearing Board for the proposed use.
- j) Maintenance and repair. 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, all other governmental regulations as from time to time amended, and all Township ordinances consistent therewith.
- k) Annual inspection and report. The applicant for approval to erect a communications tower, or the owner of the tower, shall submit annually to the Township Engineer, within sixty (60) days following inspection, a copy of the annual inspection report and antennas by a structural engineer registered in Pennsylvania as required by the ANSI/EIA/TIA-222-E Code or other applicable regulations. Based upon the results of such an inspection, the Zoning Officer may require removal or repair of the communications tower or part thereof if public safety so requires. Such removal or repair shall be completed within thirty (30) days after the Township's written notice requiring same to the owner of the facility. In the event the annual inspection referred to above is not performed and/or the required annual report is not filed with the Township Engineer in a

timely manner, the owner shall be subject to the enforcement remedies of Article XIII of this ordinance.

- l) Interference with existing reception. In the event that a communications tower and/or antenna causes interference with: [1] the radio or television reception on any property within the Township, or [2] any police, fire, or similar emergency services communication, for a period of three (3) consecutive days, the property owner may notify the applicant of such interference and the applicant, at the applicant's sole expense, shall thereafter ensure that any interference problems are promptly corrected. In the event the applicant fails or refuses to take the necessary steps to correct the interference in a timely manner, the applicant shall be subject to the enforcement provisions of the Ordinance.
 - m) Abandonment and removal. If use of the communications facility or any part thereof is abandoned or if the facility is not in use for its originally intended purpose for a period of six (6) months or longer, the owner of the facility shall demolish and/or remove the facility from the site within six (6) months of such abandonment or non-use. Abandonment shall be presumed after six (6) months of non-use, and the owner of the facility shall have the burden of proving non-abandonment. In the event the demolition or removal is not performed in a timely manner, the owner shall be subject to the civil enforcement proceedings of Article XIII of the Ordinance.
4. Revise Sect. 901.27 Overall Building Height Limitations, Towers, and Antenna, to read as follows:

“901.27 Overall Building Height Limitations; Radio Tower and Antenna

- a) The maximum building height in the A-Agricultural District, in the R-1 and R-2 Residential Districts, and the NC-Neighborhood Commercial District shall not exceed thirty-five (35) feet as specified in each respective District. Within the IP-Planned Industrial Office District, the maximum height of any building shall not exceed fifty-five (55) feet. The height of farm buildings and farm related structures shall be exempt from these regulations. The height of a communications tower or antenna, as defined by this ordinance, shall be regulated in accordance with Section 901.30.
- b) A pole, mast, or tower related to the use of an amateur radio operation is permitted as an accessory use to a dwelling (refer to Section 901.1-b of this Ordinance), provided the height of said poles, masts, or towers does not exceed the maximum height limitation of the District in which it is located.
- c) If a use, including any commercial radio tower or radio antenna not related to a residence, requires a pole, mast, tower or antenna exceeding the height limitation of the District in which the structure is located, approval for such an exception to the height limitation shall be obtained only through the grant of a variance by the

Zoning Hearing Board. Should the Zoning Hearing Board grant such a variance, it shall apply the following regulations as conditions on the grant of the variance;

- 1) The tower or antenna and its foundation shall be designed and all construction shall be supervised by a registered professional engineer. The applicant shall file a location plan and all appropriate details for the tower prepared by a registered professional engineer in addition to all manufacturers' specifications required.
- 2) Where a tower is erected by a tenant, the consent of the owner of the property shall be included with the application.
- 3) The tower base shall meet all of the front, side and rear yard requirements of the District in which it is proposed to be located and no portion of the base of said tower shall be located closer to any property line than the actual proposed height of said tower.