

2003-02

ORDINANCE NO. 02-03

**AN ORDINANCE OF HAMILTONBAN TOWNSHIP, ADAMS COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE OF
DECEMBER 7, 1999, BY REGULATING THE PLACEMENT, CONSTRUCTION
AND MODIFICATION OF COMMERCIAL WIRELESS
TELECOMMUNICATION SERVICE FACILITIES, PERMITTING CELL
TOWERS IN ALL DISTRICTS AS A CONDITIONAL USE, AND PROVIDING
DEFINITIONS.**

**BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the
Board of Supervisors of Hamiltonban Township, as follows:**

4/1/2003 AMENDMENTS
TO THE
HAMILTONBAN TOWNSHIP ZONING ORDINANCE

Definitions to be added to Article XVI, Section 1600

Co-location – The location of two (2) or more transmission antennae or related equipment on one (1) commercial wireless telecommunications service facility by one or more providers.

Commercial Wireless Telecommunications Service Facility – Also known as Cell Towers. An unmanned facility consisting of antennae, support structure, equipment, and an equipment storage shelter used for the reception, switching, and/or transmission of wireless telecommunications including, but not limited to, paging, enhanced specialized wireless telecommunications, personal communication services, cellular telephone, and similar technologies. A commercial wireless telecommunications service facility antennae may be either freestanding, guy anchored, roof mounted, or structure mounted. The antennae may or may not be included with the structure initially.

Amend the definition of Accessory Use to include: “Where authorized by this Ordinance, commercial wireless telecommunications service facilities may be considered an accessory use.”

Permitted Districts

All districts as a conditional use. Shall be added as Sections 702.9, 802.11, 902.8, 1002.5, and 1102.10 and shall read as follows: “Commercial Wireless Telecommunications Service Facilities in accordance with Section 316 of This Ordinance.”

Section 316 Commercial Wireless Telecommunications Service Facilities**A. Purpose**

The purpose of this Section is to regulate the placement, construction and modification of commercial wireless telecommunications service facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace within Hamiltonban Township.

B. Applications

In addition to any other requirements prescribed by this Ordinance and/or the Subdivision and Land Development Ordinance, applications for the establishment of a commercial wireless telecommunications service facility shall include, at a minimum, the following information.

1. The name, address, and telephone number of both the owner and the lessee of the parcel of land upon which the facility is to be situated. The proposed facility's FCC registration number. If the applicant is not the owner of the property, written and notarized documentation that the owner of the property has agreed to grant use of the property for the proposed facility.
2. The name, address, and telephone number of all owners of other such facilities within the service area of the proposed facility, including municipally owned property.
3. Documentation, signed by an Engineer licensed in the State of Pennsylvania, that the facility is designed in accordance with all applicable building codes, in addition to all other State and Federal laws and regulations applicable thereto.
4. In order to achieve the most efficient use of land within the Township, an affidavit must be filed attesting to the fact that the applicant made diligent, but unsuccessful, efforts to receive permission to install or co-locate the proposed facility on another service provider's facility within the service area and that the proposed site is, therefore, of practical necessity. The applicant shall provide an existing capacity analysis demonstrating a need for additional capacity at or near the proposed facility location. Where the facility is proposed by a tower company with the intent to lease tower space to licensed wireless communications companies, the applicant shall demonstrate that it is aware of and is addressing specific capacity needs of wireless communications companies licensed to operate in the area. Co-location is encouraged wherever possible. If co-location is not possible, a written report shall be provided detailing the facts supporting this determination.
5. The use of existing non-residential structures, including water towers, public utility structures, recreational light fixtures and buildings, shall also be encouraged where possible. The applicant shall demonstrate that owners of all structures in excess of fifty (50) feet in height within a one thousand five hundred (1,500) foot radius of the proposed site have been contacted and asked for permission to install the antenna(e) on those structures. Installation opportunities include, but shall not be limited to, smoke stacks,

water towers, agricultural silos, tall buildings, and other communication towers. If the applicant can demonstrate that no siting opportunities exist except for the proposed new location, then the applicant may proceed provided all other requirements can be met. Any applicant proposing to locate antennae on such a structure shall provide the Township with a written agreement from the property owner allowing the use. No zoning or land development approval shall be required where the antenna(e) extends no more than thirty (30) feet above the existing structure, however all other applicable requirements shall apply.

6. A written agreement between the property owner and the applicant confirming that when a commercial wireless telecommunications service facility becomes abandoned, obsolescent, or ceases to be used it shall be taken down and removed from the premises within six (6) months of its abandonment, obsolescence, or cessation of use.
7. All applicants shall file with the Township a land development plan in accordance with the Hamiltonban Township Subdivision and Land Development Ordinance following action by the Board of Supervisors on a conditional use application in accordance with Article XIV of this Ordinance. Once the initial facility or tower structure is approved, additional co-location proposals shall not be subject to further conditional use or land development approval. Each facility shall be subject to an annual renewal of the conditional use approval.
8. A visual impact analysis shall be required in accordance with Section 316.D of this Ordinance.
9. All commercial wireless telecommunications service facilities existing on the effective date of this Ordinance shall be allowed to continue as they presently exist. Routine maintenance, including modifications to accommodate the co-location of an additional user or users, shall be permitted. New construction, other than routine maintenance or modifications to accommodate co-location, shall comply with all requirements of this Section.

C. General Requirements

1. No commercial wireless telecommunications service facility shall be constructed within Hamiltonban Township until all necessary local, State and Federal approvals and permits have been secured. Copies of these approvals and permits shall be provided to the Township prior to the issuance of any building permit.
2. No commercial wireless telecommunications service facility shall be located on any property listed on or designated as eligible for either the State or National Historic Register. Said facilities shall also be prohibited within any Township, State or Federal designated historic district.
3. No commercial wireless telecommunications service facility shall be located within any required building setback, nor shall a freestanding or guy anchored facility be located within fifty (50) feet of any property line. Furthermore, a freestanding or guy anchored facility shall be set back from any residential, church or school structure a distance at least equivalent to its height, but not less than one hundred (100) feet. Distances shall be measured from the center of the base of the facility to the property line. All guy wires shall be located on the same lot as the commercial wireless telecommunications service

facility and must comply with the building setback requirements for the zoning district in which the facility is located.

4. Measurement of a commercial wireless telecommunications service facility's height shall be measured from the finished grade and shall include the structure itself, the base pad, and any other appurtenances. The applicant must demonstrate that the proposed facility is the minimum height to function satisfactorily. Coverage analyses shall be provided for a sufficient range of facility heights to demonstrate the relationship between proposed height and coverage "dead spots." The maximum height of a commercial wireless telecommunications service facility shall be two hundred fifty (250) feet. If mounted on an existing non-residential structure, the facility shall extend no more than 100% of the existing structure's height.
5. When located on a site as an accessory use, freestanding or guy anchored commercial wireless telecommunications service facilities and their related accessory structures shall be located behind the rear of the structure housing the principal use. Vehicle access to the tower and related accessory structures shall not interfere with the parking or vehicular circulation provided for the principal use.
6. Commercial wireless telecommunications service facilities shall be designed to accommodate three (3) or more wireless communications providers in order to facilitate the co-location of other service provider's facilities. The Township shall be provided the name, address, telephone number and responsible individual's name of each additional provider prior to co-location.
7. Where a specific color pattern is not required by the Federal Aviation Administration (FAA), commercial wireless telecommunications service facilities shall be painted to blend or match with the surrounding environment. The facility shall be painted green or brown from the base of the tower to the average height of surrounding vegetation. The facility shall be painted light blue or light gray from the average height of surrounding vegetation to the top of the tower. Fencing and accessory buildings and structures shall also be subject to these color requirements. Paints used shall have a flat, matte, non-gloss, non-fluorescent finish. Alternate color schemes may be proposed, however the color scheme for the facility shall be subject to the approval of the Board of Supervisors as part of the land development plan review process.
8. A fence or wall of eight (8) feet in height shall be required to encompass a freestanding or guy anchored commercial wireless telecommunications service facility, including any associated accessory building or structure. Access to the facility shall be through a locked gate. Except for entrances, all fences and walls shall be screened with acceptable landscaping and screening techniques, so that no more than one-half (1/2) of the surface of the fence or wall is visible from a public street or any adjoining property within three (3) years after erection of the facility. All required landscaping shall be of the evergreen variety and shall be irrigated and properly maintained to ensure continuous health and vitality. All trees shall be a minimum height of six (6) feet at the time of planting. Any plant material that does not survive shall be replaced within one (1) year. Existing vegetation shall be preserved to the maximum extent possible and may be credited, when appropriate, towards the required screening.

9. No advertising, logos, or corporate symbols shall be permitted on any commercial wireless telecommunications service facility or any building or structure accessory thereto. Signs shall be permitted for identification purposes as well as emergency contact information and co-location opportunities. Said signs shall be in accordance with any applicable Federal requirements or the requirements of Section 309 of This Ordinance.
10. Commercial wireless telecommunications service facilities shall be fully automated. No employee of the communications provider shall be stationed at the site, except for periodic maintenance and inspection. Facilities shall be maintained for the life of the facility.
11. Equipment storage shelters associated with the commercial wireless telecommunications service facility shall not exceed a height of twelve (12) feet, nor exceed a size of four hundred and fifty (450) square feet.
12. No signals or lights or other means of illumination shall be permitted on any commercial wireless telecommunications service facility unless required by the Federal Communications Commission (FCC) or the FAA.
13. Commercial wireless telecommunications service facilities shall be separated from each other by a minimum of two thousand five hundred (2,500) feet.
14. No commercial wireless telecommunications service facility shall be established as an accessory use on a property without or prior to the establishment of a principal use.
15. No commercial wireless telecommunications service facility shall disturb or diminish the normal radio or television or similar reception for any adjoining property. Operators must comply with all FCC regulations in this regard.
16. A minimum of two (2) off-street parking spaces shall be provided for each commercial wireless telecommunications service facility.
17. Commercial wireless telecommunications service facilities shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties.
18. Access shall be provided from the street (public or private) to the facility by a service drive with a minimum twenty (20) foot right-of-way and a twelve (12) foot wide cartway. Said service drive shall be improved at a minimum with a base course of eight (8) inches of 2A stone. The base course shall be measured after it has been compacted with a roller of not less than ten (10) tons in weight or equivalent. The facility shall be accessible by emergency vehicles via said service drive
19. Anti-climbing devices, designed to industry standards, shall be required on all tower and pole structures.
20. All proposed public improvements, including the service drive, shall be guaranteed for completion in accordance with Section 700.5 of the Township Subdivision and Land Development Ordinance.

21. All other conditions imposed as a result of the Board of Supervisors' conditional use decision.

D. Visual Impact Analysis

The applicant shall provide a visual impact analysis for any proposed commercial wireless telecommunications service facility or for any proposed modification to an existing commercial wireless telecommunications service facility. Co-location activities shall not be considered a modification subject to this requirement. The analysis shall consist of a written report assessing the cumulative impacts of the proposed facility, and shall identify all feasible mitigation measures necessary to eliminate or minimize any perceived visual impact by the proposed structure. Mitigation measures shall be consistent with the technological requirements of the applicant. The Township shall review and consider all information presented in the report. The report shall include, but not be limited to, the following:

1. A photograph simulation of pre-development versus post-development views from key viewpoints, as established by the Township Zoning Officer, and may include areas both inside and outside the Township;
2. An analysis of alternative tower structure design (including height variations) and color schemes; and an analysis of monopole versus lattice design; and
3. An analysis of the visual impact of the facility base, accessory buildings, tower, antennae and overhead utility lines from abutting properties and streets.

ADOPTED by the Board of Supervisors of Hamiltonban Township,
Adams County, Pennsylvania, on the 1st day of
April, 2003.

ATTEST:

BOARD OF SUPERVISORS
HAMILTONBAN TOWNSHIP

Pendelope D. Samples
Secretary

Stephen M. Jacobs
Chairman
William E. Eckert
James E. Benner
Barbara A. Necks
Jay Edward Dewey