

ARTICLE 26

WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS

2601 PURPOSE

The purpose of this Article is to establish guidelines for the siting of wireless communications towers and antennas. The goals of this section are:

- A. Limit the location of towers;
- B. Minimize the total number of towers throughout the Township;
- C. Encourage the joint use of towers and co-location as a primary option rather than construction of additional single-use towers;
- D. Encourage siting of towers and antennas in areas where the adverse impact on the community is reduced, including the clustering of towers in areas where their impact would be comparatively diminished;
- E. Encourage users of towers and antennas to configure them in a way that minimizes adverse visual impact, through careful design, siting, landscape screening, and innovative camouflaging techniques;
- F. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- G. Consider the public health and safety relative to communication towers;
- H. Avoid potential adverse consequences to adjacent properties from tower failure.

In furtherance of these goals, the Township Planning Commission shall give consideration to the Township's Land Use Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

2602 DEFINITIONS

As used in this Article, the following terms shall have the meanings set forth below.

- A. "Alternative tower structure" means man-made trees, water towers, clock towers, bell steeples, light poles and similar alternative design mounting structures that help to camouflage or conceal the presence of antennas or towers.
- B. "Antenna" means any exterior transmitting or receiving device mounted on a tower, structure or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. An "antenna" shall not be deemed an "essential service" under this Zoning Ordinance.
- C. "Backhaul network" means the lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- D. "FAA" means the Federal Aviation Administration.
- E. "FCC" means the Federal Communications Commission.
- F. "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the lot to the highest point on the tower or other structure, including the base pad and any antenna.
- G. "Preexisting towers" and "preexisting antennas" mean any existing tower or antenna, including approved towers or antennas that have not yet been constructed. The opposite of "preexisting" is "new".
- H. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio or similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto. A "tower" shall not be deemed an "essential service" under this Zoning Ordinance.
- I. "Tower Special Use District" means the following zones within the Township wherein towers and antennas may be permitted as special uses: F, B, FR and OC zones.
- J. "Tower Permitted District" means the following zones within the Township wherein towers and antennas are deemed permitted uses, rather than special

uses, and need only comply with the non-special use provisions of this Article: M zone.

K. "Tower Prohibited District" means the following zones within the Township wherein towers and antennas are prohibited: A, AA and AM zones.

2603 APPLICABILITY; EXCEPTIONS

All towers and antennas in the Township shall be subject to this Article, except as provided in subsections A through C below.

A. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Ordinance, other than the requirements of subsections 2604(E), (F), (G) and (I). To the extent that a preexisting tower is being extended in height, then such extension shall be subject to this Article.

B. Amateur Radio Station Operators/Receive Only Antennas. This Ordinance shall not govern any tower or antenna that is under fifty (50) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas or is used solely for citizen's band radio.

C. AM Array. For purposes of implementing this Article, an AM array, consisting of one (1) or more tower units and supporting ground systems which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers include in the AM array. Additional tower units may be added within the perimeter of the AM array by rights.

2604 GENERAL REQUIREMENTS APPLICABLE TO ALL NEW TOWERS AND ANTENNAS

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. Except as stated to the contrary herein, a different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot size. For the purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setbacks requirements, lot size requirements, and other such requirements, the dimensions of the entire lot shall control, even though the

antenna(s) or tower(s) may be located on smaller leased parcels within such lot.

C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the Township or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The Township may share such information with other applicants applying for approval under this Ordinance or other organizations seeking to locate antennas within the Township, provided, however that the Township is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics and Construction. Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the structures and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding of the structure.

3. 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.

4. Metal towers shall be constructed with a corrosion-resistant material.

E. Lighting. Towers shall not be artificially lighted, except as required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding areas.

F. Structure Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state and local structure codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township

concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Signs. No signs shall be allowed on an antenna or tower.

H. Multiple Antennas/Tower Plan. Whitehall Township encourages the users of towers and antennas to submit a single application for approval of multiple towers an/or antenna sites.

I. No interference. Towers and antennas shall not interfere with television or radio reception on surrounding properties.

J. Application; Information Required. Any person or entity seeking to construct or locate a tower or antenna within the Township shall submit an application containing the following information:

1. A scaled site plan clearly indicating the location, type, and height of the proposed tower, on-site land uses and zoning, adjacent land uses, and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Township to be necessary to assess compliance with this Ordinance.
2. Legal description of the lot and leased parcel (if applicable).
3. The setback distance between the proposed tower and the nearest residential unit.
4. The distance from other towers. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing towers, if known.
5. Method of fencing, and finished color and, if applicable, the method of camouflaging and illumination.
6. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

7. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.

8. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

9. Information regarding projected radio frequency/radiation projected to be emitted by any and all antennas, and whether or not FCC standards for "categorical exclusion" are met, and if so, how and why such standards are met.

K. Engineers. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Such an engineer shall certify that the tower and/or antennas (as applicable) will be structurally sound and will comply with all applicable FCC regulations (including but not limited to radio frequency/radiation emissions) and with all applicable structure and other construction codes requirements.

L. Setbacks. Towers must be set back a distance equal to at least on hundred twenty five percent (125%) of the height of the tower from any adjoining lot line. The setback is measured from the perimeter or outside edge of the tower, however, the Planning Commission may reduce the standard setback requirement if the goals of this Ordinance would be better served thereby.

M. Guys/Structures. Guys and accessory structure must satisfy the minimum zoning district setback requirements.

N. Separation Requirements. The following tower/offsite use separation requirements shall apply to all towers and antennas for which either a Special Use Permit or a zoning permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this Ordinance would be better served thereby. The separation distance shall be measured by drawing a straight line between the base of the proposed tower and the lot line of the offsite user or designated areas, pursuant to a site plan of the proposed tower.

Table 1:
Off-site Use/Designated Area Separation Distance

Existing single-family, two family, or multi-family residential units	200 feet or 125% height of tower whichever is greater
Vacant unplatted AA, A and AM residential zones	200 feet or 125% height of tower whichever is greater
Non-residential zones	None; only setbacks apply

O. Security Fencing. Towers shall be enclosed by a security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; Each fence shall contain a sign 12" x 24" stating the name and address and emergency telephone number of the owner of the tower.

P. New Tower Alternatives. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's property antennas may consist of any of the following:

1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or

structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

6. The applicant demonstrates that there are other limiting factors than render existing towers and structures unsuitable.

7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireless system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

Q. Violation of radio frequency/radiation emissions. At such time as the owner and/or operator of any antenna or tower containing one (1) or more antennas has reason to believe that radio frequency/radiation emissions, the source of which is the antenna or a tower containing one (1) or more antennas, violates applicable laws, rules or regulations promulgated by any state or federal legislative or administrative entity, the owner and/or operator of such antenna and/or tower shall, within seven (7) days thereof, provide the Township Supervisor with written notice thereof, including all relevant information known by the owner and/or operator of such antenna and/or tower of such potential violation.

R. Tower Failure or Damage. The owner and/or operator of any tower within the Township shall, within seven days of an "occurrence" as defined herein, provide notice of such occurrence to the Township Supervisor, setting forth the time, place, and nature of such occurrence, and setting forth all steps undertaken by the owner and/or operator of the tower to correct or repair the circumstances related to such occurrence. As used herein, the term "occurrence" shall mean the failure and/or damage to any tower which, if not corrected, effects the structural integrity of such tower.

2605 TOWERS AND ANTENNAS IN THE TOWER PERMITTED DISTRICT

The uses in this section are deemed to be permitted uses and shall not require a Special Use Permit. Only an application for a zoning permit to be issued by the Zoning Administrator shall be required. The provisions of Section 2607 shall not apply to uses identified in this Section 2605. The provisions of Section 2604 shall apply to the uses identified in this Section 2605.

A. Tower Permitted District. The Tower Permitted District is in the "M" zone.

B. Existing Structures/Towers. Locating antennas on existing structures or towers consistent with the terms of paragraphs 1 and 2 below:

1. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional structure provided: the antenna does not extend more than thirty (30) feet above the highest point of the structure; the antenna complies with all applicable FCC and FAA regulations; and the antenna complies with all applicable structure and other construction codes.

2. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator, and to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

a. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

b. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

2606 RELOCATION OF EXISTING TOWERS

A. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within fifty (50) feet of its existing location, provided it follows all setback requirements.

B. Unless approval of the Planning Commission is given for the use of a second tower, after the tower is rebuilt to accommodate co-location, only one (1) tower may remain on the site.

C. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers.

D. The onsite relocation of a tower, which comes within the separation distances

to residential units or residentially zoned lands shall only be permitted when approved by the Zoning Administrator.

2607 SPECIAL USE PERMITS

The following provisions shall govern the application for and issuance of Special Use Permits for towers or antennas in excess of fifty (50) feet in height which are proposed to be located in the "Tower Special Use Zone".

A. General Application of Article 17. Applications under this section shall be subject to the special use procedures and requirements of the Zoning Ordinance.

B. Conditions. In granting a Special Use Permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

C. Application; Additional Information. In addition to other required information, the applicant shall also submit a landscape plan showing specific landscape materials.

D. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a Special Use Permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this Ordinance would be better served thereby.

1. Tower facilities shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

E. Criteria. In addition to any other applicable standards for consideration of a

Special Use Permit, applications pursuant to this Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a Special Use Permit, although the Planning Commission may waive or reduce the burden on the applicant of one (1) or more of these criteria if the Planning Commission concludes the goals of this Ordinance are better served thereby:

1. Height of the proposed tower;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress;
8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures;
9. The applicant shall demonstrate to the Planning Commission that no reasonable alternative sites are available for the proposed communication tower.

2608 ANTENNAS ON STRUCTURES OR OTHER EQUIPMENT

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The cabinet or structure shall not contain more than two hundred (200) Square feet of gross floor area or be more than nine (9) feet in height. In addition, for structures and structures which are less than sixty five (65) feet in height, the related unmanned equipment structure, if over two hundred (200) square feet of gross floor area or nine (9) feet in height, shall be located on the ground and shall not be located on the roof of the structure.

2. If the equipment structure is located on the roof of a structure, the area of the equipment structure and other equipment and structures shall not occupy more than twenty percent (20%) of the roof area.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be no greater than six (6) feet in height and sixty four (64) square feet in gross floor area. The structure or cabinet shall be screened from view of all residential properties which abut and any street or parking lots by evergreen trees with minimum height of twelve (12) inches higher than the cabinet or structure and planted no more than eight (8) feet apart from the next tree, measuring tree center to tree center, or shall be screened with planted shrubs with a minimum height of twelve (12) inches higher than the cabinet or structure planted in two (2) rows in a staggered pattern, planted no further than six (6) feet apart.

C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than two hundred (200) square feet of gross floor area or be more than eleven (11) feet in height, and shall be located in accordance with the minimum yard requirements of the zone in which located. The structure or cabinet shall be screened from view, of all residential properties which abut, by evergreen trees with a height of eight (8) feet and planted no more than eight (8) feet apart, measuring tree center to tree center, or shall be screened with planted shrubs exceeding six (6) feet in height planted in two (2) rows in a staggered pattern, planted no further than six (6) feet apart.

D. Modification of Structure Size Requirements. The requirements of Subsections A through C above may be modified by the Planning Commission to encourage collocation.

2609 REMOVAL OF ABANDONED AND NONCONFORMING ANTENNAS AND TOWERS.

A. Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township Zoning Administrator notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

B. Monitoring of Antennas and Towers. On or before October 1 of each calendar year after the owner and/or operator of a tower has been given a permit by the Township to install such tower, and on or before July 1 of each calendar year after of each antenna not located on a tower has been given a permit by the Township to install such antenna, the owner and/or operator shall provide written certification to the Township Board as follows:

1. That radio frequency/radiation emitted from any and all antennas have been measured during such current calendar year by an independent consulting firm, qualified to take such emission readings.
2. The name and address of the entity taking such emission readings.
3. A statement as to the qualifications of the entity taking readings of the emissions.
4. A copy of the results of such emission measurements and readings.
5. A statement signed by an authorized agent of the owner and/or operator that all applicable FCC rules and regulations, regarding radio frequency/radiation emissions are complied with with respect to the antennas, both individually and as to the combined effect of all antennas located on such tower.

Any tower or antenna from which radio frequency/radiation is emitted in excess of that or contrary to that allowed and/or approved by the FCC shall be discontinued or corrected within fourteen 14 days of the date in which the owner and/or operator or such tower and/or antenna discovers such condition. Violations shall be deemed a nuisance per se and subject to sanctions as otherwise provided in this Zoning Ordinance for violations thereof. In addition to any other remedies allowed by this Ordinance or by law, the Township may treat such violating towers and/or antennas as "abandoned" as set forth in subsection 1 hereof.

2610 NONCONFORMING USES

A. No Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Ordinance.

C. Restructure Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding subsection A above, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or Special Use Permit and without having to meet applicable separation requirements. The type, height, and location of the tower shall be of the same type and intensity as the original facility approval. Billing permits to rebuild the facility shall comply with the then applicable construction codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Subsection A above.

2611 TOWNSHIP DECISIONS

All decisions by the Township which wholly or in part deny a request for a tower or an antenna shall be in writing and supported by substantial evidence contained in a written record. The written record shall not consist solely of official minutes or a transcript of proceedings; such written record shall at minimum consist of written findings and conclusions of the Township supporting the action taken.