

WEST AMWELL TOWNSHIP

ORDINANCE 17, 2011

AN ORDINANCE OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND THE LAND USE REGULATIONS OF THE TOWNSHIP OF WEST AMWELL, SPECIFICALLY CHAPTERS 109-94, 109-95 AND 109-96 “GENERAL REQUIREMENTS FOR CONDITIONAL USES”, CHAPTER 109-97 “PUBLIC UTILITIES” AND CHAPTER 109-98 “WIRELESS TELECOMMUNICATIONS FACILITIES” OF THE GENERAL ORDINANCES OF THE TOWNSHIP.

SECTION I

CHAPTERS 109-94, 109-95 and 109-96 – Land Development, Article XIV, General Requirements for Conditional Uses, of the Ordinances of West Amwell Township, are hereby amended and replaced as follows:

§ 109-94. Purpose.

The purpose of this article is to set forth the requirements and procedures applicable to Conditional Uses in accordance with N.J.S.A. 40:55D-67. A Conditional Use shall not be approved unless the use is specifically permitted as a Conditional Use in the zone for which it is proposed.

§ 109-95. General requirements.

The following general requirements shall apply to all Conditional Use applications:

- A. In considering a Conditional Use application, the Board of Jurisdiction shall consider that certain uses are necessary to serve the needs of citizens of the Township. Conditional Uses also may have deleterious effects on the health, safety and welfare of the community if located without due consideration of existing conditions and surroundings. These standards and regulations are intended to provide certain design and development guidelines to further ensure that Conditional Uses, even though considered appropriate for the zones in which they are specified, will be established in such a way as to minimize their impact on surrounding properties and the community.

All Conditional Use applications shall be subject to site plan review. The Board of Jurisdiction shall give due consideration to:

- (1) The suitability of the particular property which is the subject of a Conditional Use application, including demonstration of the preservation and protection of existing natural resources on the site and in the vicinity.

- (2) Safe and efficient vehicular and pedestrian circulation, parking and loading. Parking requirements, if not specified in this chapter, shall be proven to be adequate by the applicant. All parking and loading areas must be screened from adjacent properties in accordance with applicable requirements of the West Amwell Land Development Ordinance.
- (3) Unless otherwise permitted within the specific requirements, Conditional Uses shall not occupy any area beyond the required principal building setbacks for the zone in which the Conditional Use is located.
- (4) Unless higher standards are required in the specific requirements for the Conditional Use, a minimum 10 foot wide vegetated visual screen shall separate all Conditional Uses from properties in residential zone districts.
 - (a) Screening shall consist of a combination of native plantings, to the extent possible. Alternately, an earthen berm may be employed if existing vegetated screening and native plantings will not suffice to provide the necessary buffer and maintain the rural character of the Township. The need for and location of vegetative screens includes the identification of appropriate species and varieties of vegetation to ensure that there is adequate visual screening throughout the year.
 - (b) The landscaping plantings shall be designed for enhancing the quality of the soil and the ability of the land to absorb rainwater.
 - (c) Landscaping shall be limited to the extent possible of native species of deciduous and coniferous trees and shrubs that are indigenous to the area, as listed in the Natural Resource Inventory, and shall not include invasive species as listed in Natural Resource Inventory of West Amwell Township. Such plantings shall be depicted on a plan prepared by a licensed professional. The applicant shall rely upon existing vegetation, including existing hedgerows or windbreaks that provide screening, to the maximum extent practical. The appropriate height or caliper of the vegetation to be planted shall ensure that there is a 75 percent screening of the Conditional Use within five years of issuance of a certificate of occupancy. A photo simulated exhibit depicting screening at key locations at the projected five year period shall be required.
- (5) The frontage and main access of a Conditional Use located within a residential zone shall be located on an arterial or collector road..
- (6) There shall be an impact statement which shall evaluate the impact of the proposed Conditional Use on the zone in which it is located and on surrounding properties. Such statement shall include assessments of the impacts on the following:

- (a) Air quality.
 - (b) Water quality.
 - (c) Community appearance.
 - (d) Vegetation.
 - (e) Land use.
 - (f) Traffic and road safety.
 - (g) Historical features.
 - (h) Audible impact.
 - (i) Viewsheds and scenic roads.
- (7) The impact statement will be used by the Board to determine if the proposed Conditional Use has an adverse impact or impairs the surrounding area.

§ 109-96. Specific requirements.

- A. The Planning Board shall not approve an application for a Conditional Use unless the use for which an application is being made is specifically listed as a Conditional Use within the zone where the property is located.
- B. All applicable design, improvement and use standards and regulations in this chapter must be complied with, as well as the specific requirements and standards established for each Conditional Use..

SECTION II

CHAPTER 109-97 – Land Development, Article XV, Specific Requirements for Certain Conditional Uses – Public Utilities, of the Ordinances of West Amwell Township, is hereby amended and replaced as follows:

§ 109-97. Public Utilities.

Public utility uses, as defined by New Jersey State Statute (Title 48:2-13), such as pumping stations, high-voltage transmission lines and towers, electric substations, telephone exchanges and telephone repeater stations, but not service or storage yards, may be permitted in any zone, provided that:

- A. A set of plans, specifications and plot plans and a statement setting forth the need and purpose of the installation are filed with the Board of Jurisdiction by the applicant in triplicate.

- B. Proof is furnished to the Board of Jurisdiction that the proposed installation in the specific location is necessary and convenient for the efficiency of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood in which the particular use is to be located.
- C. Above ground public utility facilities shall not occupy any area beyond the required principal building setbacks for the zone in which the public utility is located. Setback requirements shall be equal to the principal building setback in the zone or the minimum vegetated visual and security buffer requirement, whichever is greater. A minimum 50 foot wide vegetated visual screen shall separate above ground public utility facilities from properties in residential zone districts, a minimum 30 foot wide visual screen shall separate such facilities from public roads, and a 20 foot wide visual screen shall separate such facilities from properties in a nonresidential zone district.
- D. Above ground public utility facilities and structures shall be visibly screened from the public traveled way (public roads, trails, navigable waterways, scenic highways and by-ways), open space, preserved farmland, publicly owned properties and historic resources, including sites and buildings listed or eligible for listing on the State and National Registers of Historic Places.
 - a. To the extent achievable above ground public utility facilities and structures shall be sited using the natural topography to screen the public utility from public view and the view of any adjoining residences.
 - b. If the public utility is adjacent and contiguous to a permanently preserved farm, open space and/or public access easements it shall buffer the farm, open space and/or easements from view.
 - c. Standard screening requirements shall be met. However, notwithstanding the minimum requirements, the applicant shall demonstrate to the satisfaction of the Board of Jurisdiction that the proposed screening provides a visual screen of the public utility from neighboring properties. Additional screening may be needed to meet this requirement as determined by the Board of Jurisdiction.
 - d. A barrier shall be installed behind the required screen which shall:
 - 1. Secure the facility at all times.
 - 2. Restrict access to all electrical wiring that may be readily accessible.
 - 3. All control equipment shall be labeled and secured to prevent unauthorized access.
 - 4. Conform to the Uniform Construction Code and other applicable standards.
 - 5. One or more access gates to the facility shall be provided. Each access gate shall include a sign identifying the property owner as well as responsible parties for operation of the public utility facilities and structures; for maintenance of the facility; and for maintenance of the

visual screen, landscaping and security fence. Contact information for all of the above responsible parties shall be provided on each access gate sign.

6. With the exception of signs identifying the public utility operator, no signs shall be posted on a public utility facility or any associated building, structures, or fencing with the exception of access gate signs, appropriate warning signs, and manufacturer's or installer's identification.
7. All transformers and high voltage equipment shall be situated within a compound, which shall be enclosed within a security fence and access gate, which shall remain locked at all times. If appropriate, the entire facility shall be enclosed within a security fence and access gate.
8. The height of security fences and access gates shall not exceed 8'. Barbed wire fences are not permitted except in cases where it is demonstrated to the satisfaction of the Board of Jurisdiction that barbed wire fencing is required for security purposes. In such cases the total height of the fence and access gates including barbed wire shall not exceed 8'. Approval of barbed wire fencing for public utility facilities is at the discretion of the Board of Jurisdiction.

- E. A Maintenance Plan shall be submitted by the applicant for the continuing maintenance of all required plantings, including a schedule of specific maintenance activities to be conducted. A Maintenance Plan narrative shall also be included on the site plans in note form. Maintenance of the required landscaping and fencing shall be a continuing condition of any approval that may be granted. A cost estimate for required plantings shall be presented as part of any application and a 5 year maintenance bond approved by the Township Engineer shall be a condition of approval. The Maintenance Plan shall be environmentally responsible.
- F. All ground areas occupied by a public utility that are not utilized for access to operate and maintain the installation shall be planted and maintained with shade tolerant grasses for the purpose of soil erosion control and soil stabilization:
 - a. A seed mixture of native, non-invasive shade tolerant grasses shall be utilized and specified in a landscaping plan that shall be provided.
 - b. If it can be demonstrated by the applicant that an alternative vegetative ground cover consisting of a seed mix of native, non-invasive plant species and non-native, non-invasive shade tolerant species shall be accepted for soil erosion control and soil stabilization, and the alternative can be better sustained over the life of the facility, the reviewing Board may approve such an alternative to the requirement for native, non-invasive shade-tolerant grasses or mix of grasses.
 - c. To the extent possible, roadways within the site shall not be constructed of

impervious materials in order to minimize the amount of soil compaction. Roadways shall be constructed to the minimal extent possible.

- d. The bed and banks of existing drainage ditches, brooks, streams and drainage swales shall be maintained in their natural condition, except that where soil erosion is evident in these features due to a lack of suitable stabilized vegetation. The Board of Jurisdiction may require such areas to be planted and stabilized in accordance with the recommendations found in Chapter 8, Restoration Design, of the publication entitled Stream Corridor Restoration, Principles, Processes and Practices, 10/98 Published Version. Revised 8/2001, prepared by the Natural Resource Conservation Service and available at www.nrcs.usda.gov/technical/stream_restoration/newtofc.htm.
 - e. The components of this plan may be combined with the requirements of the Grading and Drainage Plan. See Section G below.
- G. The required landscaping plan shall include the provision of adequate and appropriate drainage features, which shall be designed such that site grading and construction maximizes the natural drainage patterns of stormwater originating within the property boundaries and beyond property boundaries. If grading is proposed, then a grading and drainage plan shall be submitted, which shall demonstrate that the project is in compliance with the Township's stormwater ordinance and other applicable state standards.
- a. A grading and drainage plan, including a soil erosion, a soil stabilization and a soil grading plan shall be submitted under the seal of a licensed professional engineer prior to any permits being issued. The plan shall adequately demonstrate to the Board of Jurisdiction's engineer that no stormwater runoff or natural water shall be diverted as to overload existing drainage systems or create flooding. Such plan shall also address the need for additional drainage structures on other private properties or public lands.
 - b. The grading and drainage plan shall show, among other things:
 - (1) All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion, and water generally;
 - (2) The calculated volume of water run-off from the slope and from the lot in question, as proposed to be improved; the existence of all natural and artificial drainage courses and facilities within 500 feet of the lot, which are or will be used to carry or contain the run-off from the slope and the lot; and
 - (3) The effect of any increased water runoff on all adjacent properties and any other property which will be materially affected by increased water run-off.
 - c. Calculations shall be provided to adequately demonstrate that existing

preconstruction stormwater drainage velocities shall not be exceeded in the post development condition.

- d. The use of stone shall not be permitted for soil erosion control and soil stabilization unless as part of an overall plan approved by the Board of Jurisdiction.

H. In addition to those items required for an application to be deemed complete, a site plan application shall depict the following:

- a. Location, dimensions, and types of existing structures on the property.
- b. Location of proposed and existing overhead and underground utility and transmission lines.
- c. Location of any proposed or existing substations, inverters or transformers.
- d. In the case of electrical facilities, a description of how the energy generated by the facility will be connected to the electrical distribution or transmission system or the electrical system of the intended energy user. This description shall also address the ability to disconnect the system in the event of an emergency or maintenance.
- e. Description of shielding of any electric equipment to prevent interference of radio or television reception at the property line.
- f. Description of any necessary upgrades or modifications to existing substations or the necessity for a new substation.
- g. Location and condition of existing hedgerows and vegetated windbreaks.
- h. A description of any lighting and its impact on neighboring residences and properties.
- i. A construction plan to include a description of on site construction.

I. An as-built plan shall be provided prior to activation.

J. Public utility facilities shall be designed to comply with either of the following standards for sound emission:

- a. The sound level shall not exceed 40 dBA when measured at any point on the property line of the public utility; or
- b. The sound level shall not exceed the ambient sound levels measured at locations at the property line of the public utility that reasonably represent

current or potential off-site sensitive receptors in accordance with the following requirements:

- (1) Ambient sound level measurements shall be made with an octave band sound level meter during daylight hours for periods of at least one half hour and on three separate occasions, a minimum of four hours apart, representing morning, mid-day and evening, at least one of which shall be during a non-rush hour. The meter shall be set for slow response with a one second sampling interval; and
- (2) The data reported for each occasion shall be the octave band values (31.5 Hz to 8,000 Hz) from the one second sample that represents the L90 or Lmin broadband value (“unweighted” or “flat” response, e.g., dBZ).

- K. Any disturbance of wooded or forested areas shall be in compliance with the West Amwell Woodlands Protection Ordinance (109-264).
- L. Except pursuant to a permit issued by the New Jersey Department of Environmental Protection (NJDEP), no portion of public utility facilities and structures shall occupy areas of land designated and regulated by NJDEP as floodplains, flood hazard areas, wetlands, wetland transition areas or riparian corridors. An applicability determination from the NJDEP shall be provided to document the presence and/or absence of these regulated areas. Buffer maintenance shall be consistent with the West Amwell Stream Corridor Protection Ordinance (109-146).

SECTION III

CHAPTER 109-98 – Land Development, Article XV, Specific Requirements for Certain Conditional Uses – Wireless Telecommunications Facilities, of the Ordinances of West Amwell Township, is hereby amended and replaced as follows:

§ 109-98. Wireless Telecommunications Facilities.

- A. Wireless telecommunications facilities (WTF) and wireless telecommunications equipment facilities (WTEF) shall be considered conditional uses in all zones and shall be permitted as a second use on a lot.
- B. Antennas may be located on any existing structure (building, barn, silo, steeple, etc.) which is permitted in the zone. Such antennas shall not exceed 10 feet above the highest point of the structure and shall be designed to blend with that structure. Any associated equipment should be contained either directly within that structure, within another existing ancillary structure, or within a new structure designed to simulate an accessory building to the principal use on the site and subject to the zone regulations for an accessory structure. Antennas located on such existing structures need not comply with Subsection C(1), (2) [except Subsection C(2)(b)], (3), (4) or (5) below.
- C. Wireless telecommunications towers, including their associated antennas, shall be permitted if they meet the following conditions:

- (1) Lot size: 10 acres.
- (2) Height standards.
 - (a) Maximum height of wireless telecommunications tower (exclusive of lightning rod): 140 feet.
 - (b) Maximum height of attached: shall not exceed 10 feet above the highest point of the structure
 - (c) Maximum height of WTEF's: maximum height allowed in zone for accessory structures.
- (3) Setback standards. The following setback requirements shall apply to all towers for which a variance or conditional use permit is required:
 - (a) Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line and all nonappurtenant buildings or the zoning district setback requirements, whichever is greater.
 - (b) WTEF's must satisfy the minimum zoning district setback requirements.
 - (c) No tower shall exist within required buffer areas or conservation easement areas in any zone. Further, no WTF or WTEF shall exist within any easement subject to conservation, open space, or historical restrictions under the NJDEP Green Acres program, or upon any portion of land subject to an agriculture development easement.
- (4) Separation from off-site uses/designated areas. The following separation requirements shall apply to all towers and antennas for which a variance or conditional use permit is required:
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 - (b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1

Off-Site Use/Designated Area	Separation Distance
Base of tower to:	
Existing residences, public parks and buildings, public or private schools, municipal buildings, libraries, houses of worship, land subject to a Green Acres easement, land subject to an agricultural development	500 feet or 300% of the height of the tower, whichever is greater
Any site designated on the National and/or State Register of Historic Places	2,500 feet

Vacant residentially zoned land

500 feet or 300% of the height of the tower, whichever is greater

- (5) Security fencing. WTF's and WTEF's shall be surrounded a security fence. The security fence shall be eight feet high. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access.
- (6) Visual screening. In addition to security fencing, plant materials or earthwork shall be provided along the outside perimeter of the security fence to provide a continuous visual screen or buffer for adjoining properties and rights-of-way.
- (7) Area of WTEF. The cabinet or structure of a WTEF shall not contain more than 2,000 square feet. If the WTEF's are located on the roof of a building, the area of the WTEF shall not occupy more than 25% of the roof area.
- (8) Signs. A sign shall identify the property owner as well as responsible parties for operation of the WTF or WTEF; for maintenance of the facility; and for maintenance of the visual screen, landscaping and security fence. Contact information for all of the above responsible parties shall be provided. Additional signs shall not be permitted except for required signs displaying owner contact information, warnings, equipment information and safety instructions. Such signs shall not exceed two square feet in area. No commercial advertising shall be permitted on any WTF or WTEF
- (9) Lighting. No lighting is permitted except as follows:
 - (a) WTEF's may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward, and is on timing devices and/or motion sensors so that the light is turned off when not needed for safety or security purposes.
 - (b) No lighting is permitted on a WTF except what may be required by the FAA.
- (10) Monopole. Any proposed new telecommunications tower shall be a monopole unless the applicant can demonstrate that a different type of pole is necessary for the collocation of additional antennas on the tower. Such towers may employ camouflage technology.
- (11) Location priority. WTF's should be located to minimize the number of facilities needed in the community, while insuring effective and efficient telecommunications services; to encourage the use of existing buildings and structures to the maximum extent possible; to minimize the visual impact through careful siting, design, landscaping, screening and innovative camouflaging techniques, to make the facility compatible with the neighboring residences and the character of the community as a whole. Facilities should be placed to ensure that historic and architecturally significant areas, buildings and structures and significant view-, land-, and streetscapes are not visually

impaired.

- (12) Noise. No equipment shall be operated so as to produce noise that would be a nuisance as per the West Amwell Nuisance Code, Chapter 166.
- (13) Parking. Parking shall be supplied as needed, not to exceed three spaces.
- (14) Maintenance. WTF's and WTEF's shall be maintained to assure their continued structural integrity and the site shall be maintained so as to not create a visual nuisance.
- (15) Color. WTF's shall be of a color appropriate in the context of the tower's location and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
- (16) Expert testimony. Expert testimony must be presented to include the following:
 - (a) Demonstrate need for a WTF at the proposed location. Such evidence shall describe in detail the wireless telecommunications network layout and its coverage area requirements and the need for new wireless telecommunications facilities at this specific location within the Township.
 - (b) Report from a qualified expert certifying that the WTF will comply with the structural and wind loading requirements as set forth in the International Building Code; or the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended; or such other code as may apply to these facilities, including a description of the number and type of antennas it is designed to accommodate.
 - (c) Proof that the applicant has exercised its best efforts to locate the wireless telecommunications antennas on an existing building or structure rather than on the proposed tower. Evidence demonstrating that no existing tower or building or structure can accommodate the provider's proposed antenna may consist of any of the following:
 - [1] No existing towers or structures are located within the geographic area that is necessary to meet the provider's radio frequency engineering requirement to provide reliable coverage.
 - [2] Existing towers or structures are not of sufficient height and cannot be made to be of sufficient height to meet the provider's radio frequency engineering requirements.
 - [3] The provider's proposed antenna would cause electromagnetic interference with antennas on existing towers or structures or the antennas on the existing towers or structures would cause interference with the provider's proposed WTF.

[4] The fees, cost, 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 patently unreasonable. Actual direct costs exceeding new tower design, development, and construction are presumed to be patently unreasonable.

[5] The provider demonstrates that there are other limiting factors that render existing towers or structures unsuitable.

- (d) Provision of the location of all existing communication towers and other structures over 35 feet in height within the applicant's search area; and provision of competent testimony by a radio frequency engineer regarding the suitability of each location so identified.
- (e) Where a suitable location on an existing structure or tower is found to exist, but the applicant is unable to secure an agreement to collocate its equipment on such tower or other structure, the applicant shall provide sufficient written evidence of its attempts to collocate.
- (f) Proof that the applicant has exercised its best efforts to site its WTF on an existing building or structure, prior to the consideration of a tower location. Such information shall include, but not be limited to, a list of the structures over 35 feet, including block and lot numbers and locations; the block and lot number of any parcel for which the wireless provider has attempted to secure a lease or purchase agreements; and copies of all correspondence from and between the provider and the property owner.
- (g) Applicants for new WTF's shall demonstrate that there is adequate ability for future expansion of the tower and facilities to accommodate future collocations to the maximum height of 140'.

D. Abandonment. Any wireless telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of such facility shall remove it within 90 days of notice from the Zoning Officer that the facility is abandoned. If such facility is not removed within 90 days, the Township may remove such facility at the owner's expense. If the facility is to be retained, the provider shall establish that the facility will be reused within one year after such abandonment. If the facility is not reused within one year, the facility shall be removed. At the discretion of the Zoning Officer, upon good cause shown, the one-year reuse period may be extended for a period not to exceed one additional year.

SECTION IV - SEVERABILITY

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

SECTION V

All other provisions of Chapter 109 – Land Development, of the Ordinances of West Amwell Township not modified herein shall remain unchanged and in full force and effect.

SECTION VI

This ordinance may be renumbered for codification purposes.

SECTION VII

This Ordinance shall take effect immediately upon final passage, publication according to law, and filing with the Hunterdon County Planning Board.

APPROVED BY TOWNSHIP COMMITTEE

Thomas J. Molnar, Mayor

ATTEST:

Lora L. Olsen, RMC
Township Clerk

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading at a meeting of the governing body of the Township of West Amwell, in the County of Hunterdon, State of New Jersey, held on October 26, 2011. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held in the municipal building, 150 Rocktown-Lamb. Rd., Lambertville NJ on November 23, 2011 at 7:00 p.m. All interested parties will be heard at this time.