

AN ORDINANCE REGULATING
PERSONAL WIRELESS
TELECOMMUNICATION FACILITIES
AND EQUIPMENT AND AMENDING THE
"CODE OF THE TOWNSHIP OF
PRINCETON, NEW JERSEY, 1968."

BE IT ORDAINED by the Township Committee of the Township of Princeton:

1. Division 2 of Article XI of Chapter 10B of said Code is amended by adding thereto the following new subdivision XX, which shall read as follows:

Subdivision XX
Personal Wireless Telecommunication Facilities And Equipment

Section 10B-272.50. Preamble.

Whereas, the federal government, through the Federal Communications Commission (FCC), has issued personal wireless telecommunication licenses for personal telecommunication services and other wireless technologies; and

Whereas, the FCC requires license holders to provide coverage to areas where personal wireless telecommunications licenses have been acquired and this may require that such facilities be constructed in specified locations and manners determined by engineering standards to achieve such coverage; and

Whereas, the Federal Telecommunications Act of 1996 (FTA) preserves local zoning authority to reasonably regulate personal wireless telecommunication facilities (PWTFs); but the FTA mandates that localities may not unreasonably discriminate among FCC license holders and that localities cannot prohibit or adopt regulations which have the effect of prohibiting the provision of wireless services, and the FTA gives the FCC sole jurisdiction over radio frequency emissions of PWTFs so long as PWTFs meet FCC standards; and

Whereas, it is necessary to reasonably regulate PWTFs and associated personal wireless telecommunications equipment facilities (PWTEFs) to minimize potential aesthetic impacts; and

NOW THEREFORE, there is a need for new provisions in the Princeton Township land use code to address the siting of PWTFs and PWTEFs.

Section 10B-272.51. Definitions.

Antenna means a system of electrical conductors that transmit or receive radio frequency signals for wireless communications.

Antenna Support Structure means a structure other than a telecommunications tower which is attached to a building and on which one or more antennas are located.

Collocation means use of a common PWTF or a common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a PWTF on a structure owned or operated by a utility or other public entity.

Personal Wireless Telecommunications Facilities (PWTFs) means facilities for the provision of Wireless Communications services, including, but not limited to, antennas, antenna support structure, telecommunications towers, and related facilities other than PWTEFs.

Personal Wireless Telecommunications Equipment Facilities (PWTEFs) means accessory facilities serving and subordinate in area, extent and purpose to, and on the same lot as, a telecommunications tower or antenna location. Such facilities include, but are not limited to, transmission equipment, storage sheds, storage buildings, and security fencing.

Princeton Community means the Township of Princeton and the Borough of Princeton, in the County of Mercer, and State of New Jersey.

Telecommunications Tower means a freestanding structure on which one or more antennas are located, including lattice towers, guyed towers, monopoles and similar structures.

Wireless Communications means any personal wireless services as defined in the Federal Telecommunications Act of 1996 (FTA) which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas, nor does it include non-cellular telephone service.

Section 10B-272.52. Purpose and Goals.

The purpose of this ordinance is to provide sound land use policies, procedures and regulations for personal wireless telecommunications facilities to protect the Princeton community from the visual or other adverse impacts of these

facilities, while encouraging their unobtrusive development to provide comprehensive wireless telecommunications services in the Princeton community with its benefits to residents and businesses. The ordinance expresses a preference that antennas be located on existing buildings and towers, preferably on municipal or other public property, and not on newly constructed telecommunications towers; and encourages collocation and site sharing of new and existing PWTFs.

Section 10B-272.53. Development Standards.

A Height Standards

Where permitted, PWTFs may exceed the maximum building height limitations, provided the height has the least visual impact and is no greater than required to achieve service area requirements and potential collocation, when visually appropriate. PWTEFs are limited to twelve (12) feet in height.

B. Setback Standards

All PWTF and PWTEF shall be subject to the minimum yard requirements of the zoning district in which it is located, provided the minimum setback may be increased where necessary to address safety concerns.

If PWTEFs are located on the roof of a building, the area of the PWTEFs and other equipment and structures shall not occupy more than twenty-five (25) percent of the roof area.

Section 10B-272.54. Locational Priority.

If needed in accordance with an overall comprehensive plan for the provision of full wireless communications service within the Princeton community, PWTFs and PWTEFs shall be permitted as a conditional use at the following prioritized locations:

- (1) The first priority location shall be on lands or structures owned by Princeton Township;
- (2) The second priority location shall be on lands or structures owned by the Princeton Regional School District;
- (3) The third priority location shall be collocation on existing PWTFs (or existing water tanks) provided that the new installation does not increase the height by more than 10%; and
- (4) The fourth priority location shall be such locations as the applicant proves are essential to provide required service to the Princeton community.

10B-272.55. Conditional Use Standards

All PWTF and PWTEF shall be located to minimize visual impacts on the surrounding area in accordance with the following standards. In applying these standards, locations in a higher priority category under section 10B-272.54 shall be deemed more acceptable than lower priority sites.

- (1) Sites for PWTFs and PWTEFs must demonstrate that they provide the least visual impact on residential areas and public way. All potential visual impacts must be analyzed to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility.
- (2) PWTEFs should be located to avoid being visually solitary or prominent when viewed from residential areas and the public way. The facility should be obscured by vegetation, tree cover, topographic features and/or other structures to the maximum extent feasible.
- (3) PWTFs and PWTEFs shall be placed to ensure that historically significant views, streetscapes, and landscapes are protected. The views of and vistas from architecturally and/or significant structures should not be impaired or diminished by the placement of telecommunication facilities.

The standards set forth in section 10B-321 shall not apply.

Section 10B-272.56. Site Design Standards.

The following design standards shall apply to PWTFs and PWTEFs installed or constructed pursuant to the terms of this ordinance:

Collocation. Ordinance limitation on the number of structures on a lot (e.g., section 10B-276 and 10B-276.1 of the Township Code) shall not apply when PWTF and PWTEF are located on a lot with buildings or structures already on it. See also section 10B-272.57.

- (2) Fencing and other Safety Devices. PWTFs and PWTEFs shall be surrounded by a security features such as a fence. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the Planning Board.
- (3) Landscaping. Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall be landscaped. All PWTEF shall be screened by

an evergreen hedge eight to ten feet in height at planting time and/or a solid fence eight feet in height.

- (4) Signs. Signs shall not be permitted except for signs displaying owner contact information, warnings, equipment information, and safety instructions. Such signs shall not exceed two (2) square feet in area. No commercial advertising shall be permitted on any PWTF or PWTEF.
- (5) Color. PWTFs shall be of a color appropriate to the tower's locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
- (6) Activity and Access. All equipment shall be designed and automated to the greatest extent possible in order to reduce the need for onsite maintenance and thereby to minimize the need for vehicular trips to and from the site. Access shall be from established site access points whenever possible. Minimal off-street parking shall be permitted as needed and as approved by the Planning Board.
- (7) Dish Antennas. Dish antennas shall be colored, camouflaged or screened to make them as unobtrusive as possible and in no case shall the diameter of a dish antenna exceed six feet (6').
- (8) Lighting. No lighting is permitted except as follows:
 - (a) PWTEFs enclosing electronic equipment 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 sensors so that the light is turned off when not needed for safety or security purposes; and
 - (b) No lighting is permitted on a PWTF except lighting that specifically is required by the Federal Aviation Administration (FAA), and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.

Monopole. Any proposed new telecommunications tower shall be a "mono-pole" unless the applicant can demonstrate, that a different type pole is necessary for the collocation of additional antennas on the tower. Such towers may employ camouflage technology.

Noise. No equipment shall be operated so as to produce noise in excess of the limits set by the local noise ordinance, except for in emergency situations requiring the use of a backup generator.

Radio Frequency Emissions. The FTT gives the FCC sole jurisdiction of the field of regulation of Radio Frequency (RF) emission and PWTFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning PWTFs and Radio Frequency emission standards. PWTFs shall be required to provide information on the projected power density of the proposed facility and how this meets the FCC standards.

Structural Integrity. PWTFs must be constructed to 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.

Maintenance. PWTFs shall be maintained to assure their continued structural integrity. The owner of the PWTF shall also perform such other maintenance of the structure and of the site as to assure that it does not create a visual nuisance.

Section 10B-272.57. Collocation Policy

The municipal engineer shall maintain an inventory of existing PWTF locations within or near the Princeton community.

- (2) An applicant proposing a PWTF at a new location shall demonstrate that it made a reasonable attempt to find a collocation site acceptable to engineering standards and that none was practically or economically feasible.
- (3) Each application for a PWTF shall be accompanied by a plan which shall reference all existing PWTF locations in the applicant's Princeton community inventory, any such facilities in the abutting towns which provide service to areas within the Princeton community, any changes proposed within the following twelve (12) month period, including plans for new locations and the discontinuance or relocation of existing facilities.
- (4) Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the subject site was chosen. The analysis shall address the following issues:
 - (a) How the proposed location of the PWTF relates to the objective of providing full wireless communication services within the

Princeton community at the time full service is provided by the applicant throughout the Princeton community.

- (b) How the proposed location of the proposed PWTF relates to the location of any existing antennas within and near the Princeton community.
 - (c) How the proposed location of the proposed PWTF relates to the anticipated need for additional antennas within and near Princeton community by the applicant and by other providers of wireless communication services within the Princeton community;
 - (d) How the proposed location of the proposed PWTF relates to the objective of collocating the antennas of many different providers of wireless communication services on the same PWTF; and
 - (e) How its plan specifically relates to and is coordinated with the needs of all other providers of wireless communication services within the Princeton community.
- (5) The Planning Board may retain technical consultants as it deems necessary to provide assistance in the review of the site location alternatives analysis. The service provider shall bear the reasonable cost associated with such consultation, which cost shall be deposited in accordance with Princeton's escrow provisions.

Section 10B-272.58. Removal of Abandoned PWTFs.

Any PWTF that is not operated for a continuous period of twelve (12) months shall be considered abandoned. If there are two or more users of a single PWTF, then the abandonment shall not become effective until all users cease using the PWTF for a continuous period of twelve (12) months. The owner of such PWTF shall remove same within ninety (90) days of notice from the zoning officer that the PWTF is abandoned. If such PWTF is not removed within said ninety (90) days, the municipality may remove such PWTF at the owner's expense. If the facility is to be retained, the provider(s) shall establish that the facility will be reused within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility 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 10B-272.59. Nonconforming PWTFs.

PWTFs in existence on the date of the adoption of this ordinance, which do

not comply with the requirements of this ordinance (non-conforming PWTFs) are subject to the following provisions.

Nonconforming PWTFs may continue in use for the purpose now used, but may not be expanded without complying with this ordinance.

- (2) Nonconforming PWTFs which are partially damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefor, but without otherwise complying with this ordinance. If this destruction is greater than partial, then repair or restoration will require compliance with this ordinance.
- (3) The owner of any nonconforming PWTF may repair, rebuild and/or upgrade (but not expand such PWTF or increase its height or reduce its setbacks), in order to improve the structural integrity of the facility, to allow the facility to accommodate collocated antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of this ordinance.

Section 10B-272.60. Additional Site Plan Submission Requirements.

In addition to the applicable documentation and items of information required for site plan approval the following additional documentation and items of information are required to be submitted to the Planning Board for review and approval as part of the site plan submission:

- (1) Documentation by a qualified expert regarding the capacity of any proposed PWTF for the number and type of antennas;

Documentation by a qualified expert that any proposed PWTF will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industries Association (EIA) and/or the Telecommunication Industry Association (TIA) have been met;

A letter of intent by the applicant, in a form which is reviewed and approved by the Township Attorney, indicating that the applicant will share the use of any PWTF with other approved providers of wireless communication services; and

A visual impact study, graphically simulating through models, computer-enhanced graphics, or similar techniques, the appearance of any proposed tower and indicating its view from at least the five (5)

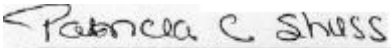
locations around and within one (1) mile of the proposed PWTF where the PWTF will be most visible. Aerial photographs of the impact area shall also be submitted.

2. Section 10B-320 of said Code which sets forth a table of conditional uses is amended by (i) adding to the text of section (b) "PWTFs and PWTEFs shall not be deemed a public utility"; and (ii) by adding a new category "(q)" which reads, "PWTFs and PWTEFs in accordance with sections 10B-272.50 et seq." and by not placing an asterisk(*) in any of the columns.

3. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of the Ordinance shall be deemed valid and effective.

4. This ordinance shall become effective upon final adoption after publication and filing a copy with the Mercer County Planning Board in accordance with law.

I, Patricia C. Shuss, Clerk of the Township of Princeton, County of Mercer, State of New Jersey, do hereby certify that the foregoing is a true copy of an ordinance adopted by Township Committee at its meeting held May 11, 1998.


Patricia C. Shuss
Township Clerk