

FILE OF COUNCIL

No. 18 of 1997

Presented in City Council on April 24, 1997

AN ORDINANCE

AMENDING FILE OF COUNCIL NO. 17 OF 1960, AS AMENDED, ENTITLED THE "CITY OF WILKES-BARRE ZONING ORDINANCE, AS AMENDED."

WHEREAS, THE CITY COUNCIL OF THE CITY OF WILKES-BARRE PASSED FINALLY ON OCTOBER 18, 1960, A ZONING ORDINANCE AND;

WHEREAS, CITY COUNCIL MAY ENACT AMENDMENTS TO THE ZONING ORDINANCE SUBJECT TO SAID AMENDMENTS HAVING PRIOR REVIEW BY THE WILKES-BARRE PLANNING COMMISSION AND;

WHEREAS THE FEDERAL TELECOMMUNICATIONS OF 1996 PROVIDED THAT WIRELESS PHONE SERVICE WAS WITHIN THE LEGAL PURVIEW OF LOCAL ZONING REGULATIONS AND;

WHEREAS THE CITY'S CURRENT ZONING ORDINANCE DOES NOT CONTAIN PROVISIONS TO ADDRESS AND PROPERLY REGULATE SUCH A USE AND,

WHEREAS COUNCIL WISHES TO PROPERLY ADDRESS SUCH A USE

NOW THEREFORE IT IS HEREBY ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF WILKES-BARRE THAT THE FOLLOWING AMENDMENTS TO THE WILKES-BARRE ZONING ORDINANCE ARE HEREBY ADOPTED.

SECTION 1.

ARTICLE 2, Section 203, Definition of Terms, is amended to include the following terms:

- (a) **WIRELESS PHONE SITE**: A tract or parcel of land that contains a wireless phone antenna, its support structure, accessory building(s), and parking or a location upon an existing structure to which a wireless phone antenna is mounted or attached thereto..
- (b) **ANTENNA**: A device used to collect or transmit telecommunications or radio signals.

- (c) **ANTENNA SUPPORT STRUCTURE:** A tower, pole, mast or similar structure which supports equipment used to transmit and/or receive telecommunication signals.
- (d) **ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure to the highest point of the structure. If the support structure is located on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

SECTION 2.

Section 1110, Table of Use Requirements -Transportation, Communication and Utilities is amended to include wireless phone sites as a use permitted by special exception in the following Zoning Districts:

- R-1 Single Family residential
- R-2 Two Family Residential*
- R-3 Multifamily Residential*
- R-A Residential Complex*
- C-N Neighborhood Commercial*
- C-1 Office Commercial*
- C-2 Community Commercial*
- C-3 Central Commercial*
- C-4 Heavy Commerical*
- I- 1 Light Industrial
- I-2 Heavy Industrial
- S-1 Special Purpose*
- S-2 Central Office*

- * Antenna Support Structure shall be limited to mounting/attachment to existing structures which shall not extend to a height greater than eight (8) feet above the roof line of an existing structure when the principal use of the subject property is residential or located in a Residential Zoning District.

SECTION 3.

ARTICLE 14, SUPPLEMENTAL REQUIREMENTS, is hereby amended to include the following Section 1429 which shall read as follows:

Section 1429 Wireless Phone Sites and Facilities

1429.1. Structural Integrity and Safety

- A. The antenna support structure shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E

manual, as amended and also to FAA standards for marking and lighting of obstructions to air navigation.

- B. A soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, shall be submitted to document and verify the design specifications of the foundation for the antenna support structure, and anchors for the guy wires, if used.
- C. An antenna support structure shall be designed to withstand wind gusts of at least eighty (80) miles per hour.
- D. The operational use of the antenna for a wireless phone site, including those mounted upon an antenna support structure or to an existing structure, shall comply with all applicable rules and regulations of the FCC and the FAA.
- E. The applicant or owner of an antenna support structure shall provide a design certificate prepared by a professional engineer, which certifies compliance with the standards addressed in the above items A, B, C and D. The design certificate shall be submitted with the Zoning Application, with an additional copy to the Chief Building Inspector of the City of Wilkes-Barre. The issuance of any zoning approval shall be conditioned upon written notice from the Chief Building Inspector that deems the required certification to be satisfactory and in compliance with the standards addressed in the above items A, B, C and D.

1429.2. Height and Setback Requirements

- A. A wireless phone site with an antenna which mounted and/or attached to an existing structure, shall not extend more than eight (8) feet above the existing structure when the principal use of the subject property is residential or located in a Residential Zoning District..
- B. The maximum height any free standing antenna support structure, not mounted or attached to an existing structure, shall not exceed 100 feet.
- C. The a free standing antenna support structure shall be setback from any property line to a distance that is not less than the maximum height of the antenna support structure.
- D. Any building utilized as a component of a wireless phone site shall be completely enclosed by a fence, eight feet in height, with such building meeting the setback requirements for the zoning district in which it is located.
- E. A free standing antenna support structure or an antenna mounted upon an existing structure, shall be removed by the owner of the same with six (6) months of the discontinuance of its use. The owner shall provide the City of Wilkes-Barre with a copy of the notice to the FCC of intent to cease operations. The six month period

for the removal of the antenna support structure or an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

1429.3. Site Plans

- A. A site plan, in conformance with Section 602.2 of the Zoning Ordinance, as amended, shall be required for the development of a wireless phone site which includes a free-standing antenna support structure or a proposed antenna mounted to an existing structure.
- B. A site plan in conformance with the governing standards of the City of Wilkes-Barre Subdivision and Land Development Ordinance, as amended, shall also be required when the location of a free-standing antenna support structure represents a described parcel of land, subject to a lease, within an existing deed of record.

1429.4. Standards and Criteria

- A. A wireless phone site shall comply with the Special Exception provisions of Section 710 Zoning Ordinance, as amended.
- B. The applicant shall provide documentation to verify the wireless phone site is designed in compliance with the standards addressed under Sections 1429.1, 1429.2 and 1429.3 of this Ordinance.
- C. The applicant shall demonstrate with technical data that a wireless phone site must be located where it is proposed in order to serve the applicant's service area.
- D. The applicant shall demonstrate with technical data that the antenna height is the minimum height required to function satisfactorily. No antenna that is taller than the minimum height shall be approved.
- E. The applicant shall demonstrate that the proposed antenna support structure complies with all applicable state and federal standards.
- F. The applicant shall demonstrate that the proposed antenna and the antenna support structure are safe and the surrounding properties will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
- G. It is encouraged that an antenna support structure be designed with excess capacity beyond the initial intended use in order to encourage secondary users to lease the balance of the capacity at reasonable rates. When a new free standing antenna support structure is proposed, the applicant must demonstrate that all alternatives to the construction of a new free standing antenna support structure have been exhausted.

- H. The applicant shall provide information on a proposed design antenna support structure which shall minimize the visual impact for those residents in an immediate area and for those in the larger community who view it from a distance.

SECTION 4.

The provisions of this Ordinance shall be severable, and if any of its provisions shall be deemed to be invalid for any reason, the validity of any of the remaining provisions of this Ordinance shall not be affected. It is hereby declared as the intention of the City Council that this Ordinance would have been adopted had such invalidity not been included therein.

SECTION 5.

All other ordinances, or parts thereof, of the City of Wilkes-Barre which are in conflict with this Ordinance, to the extent of such conflict are hereby repealed.

Passed finally by the City Council of the City of Wilkes-Barre on May 8, 1997.

This Ordinance shall become effective on May 18, 1997.

ATTEST:

William G. Brace, City Clerk