

TOWNSHIP OF MAPLEWOOD



ORDINANCE

2220-03

**AN ORDINANCE
TO AMEND AND SUPPLEMENT
CHAPTER 271
OF THE CODE
OF THE TOWNSHIP OF MAPLEWOOD
ENTITLED
"ZONING AND DEVELOPMENT REGULATIONS"**

"Interpretive Statement"

This ordinance establishes criteria for the location of wireless communication antennas and towers within the Township of Maplewood. Recognizing the requirements of the Federal Telecommunications Act of 1996, the ordinance regulates the placement of wireless communication antennas and towers within the Township so as to minimize the effects on Township residents. The ordinance sets forth objective criteria for the Township Planning Board, Township Board of Adjustment and Township Historic Preservation Commission to review applications for the construction and/or installation of wireless communication antennas and towers. The ordinance also provides for the maintenance of wireless communication antennas and towers and the dismantling of abandoned communication towers.

BE IT ORDAINED, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey, that: Chapter 271 of the Code of the Township of Maplewood be amended and supplement as follows:

FIRST:

A. Purpose:

It is the overall purpose of these ordinance provisions to provide specific zoning conditions and standards for the location of Personal Wireless Service Facilities (PWSF) and wireless communication antennas within the Township of Maplewood, to recognize the need to safeguard the public good and preserve the intent and the purposes of the Maplewood Township Master Plan and Zone Plan.

B. Overall Objective:

The overall objective of these ordinance provisions is to enable the location within the Township of Maplewood of PWSF and antennas which are necessary to provide adequate personal wireless service (PWS) while, at the same time, limiting the number of supporting PWSFs to the fewest possible.

Specific Goals.

[1] To minimize the total number of PWSFs within the Township of Maplewood;

- [2] To limit the impact of wireless communications antennas, PWSFs and related facilities upon the residences and the streetscapes throughout the Township;
- [3] To safeguard the prevailing and historic character of development throughout the Township;
- [4] To encourage the location of antennas upon, or within, existing structures, including existing PWSFs existing buildings, existing water towers or standpipes, and existing telephone and electric poles and towers, especially those existing structures situated on public property;
- [5] To encourage as many antennas as possible, of as many of the wireless communication carriers as possible, to be colocated on the fewest number of existing structures within the Township, while complying with the provisions of this Ordinance;
- [6] To discourage the construction of new PWSFs which do not have the likelihood of being used by a number of wireless communication carriers;
- [7] To encourage the communication carriers to configure their facilities in a manner that minimizes and mitigates any adverse impacts upon affected properties, streetscapes and vistas through careful design, siting, landscape screening and innovative camouflaging techniques;
- [8] To formulate and maintain, for land use planning purposes, a complete inventory of all wireless communications antennas, PWSFs and related facilities within the Township, and others in the vicinity of the Township, which are capable of providing service within the Township;
- [9] To enhance the ability of the carriers of PWS who adhere to the letter and intent of these ordinance provisions to provide such services quickly, effectively and efficiently; and
- [10] To comply with the mandate of the Federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7), which preserves local authority to enforce zoning requirements which protect public safety, public and private property and community aesthetics.

C. **Overall Comprehensive Plan**

In order to effectuate the purposes, objectives and goals of these ordinance provisions, any applicant to the Township must prove by substantial evidence that a bona fide need exists for the facility and that no reasonable combination of locations, techniques, or technologies will obviate the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of colocation exceeds the cost of a new facility by at least fifty percent. Therefore, the applicant shall provide an overall comprehensive plan indicating how it intends to provide full service throughout the Township and, to the greatest extent reasonably possible, shall indicate how its plan specifically relates to and is coordinated with the needs of all other providers of wireless communication services within and around the Township.

More specifically, the overall comprehensive plan shall indicate the following:

- (1) The mapped location and written description of all existing antennas and existing and approved supporting structures within the Township;
- (2) The mapped location and written description of all existing or approved water towers or water standpipes and existing telephone or electric poles or towers within the Township;
- (3) How the proposed location of the proposed antenna(s) specifically addresses the suitability or unsuitability of such existing structures to be utilized to provide the intended wireless communication;
- (4) How the proposed location of the proposed antenna(s) specifically addresses the anticipated need for additional antennas and supporting structures within and near the Township by the applicant and by other providers of wireless communication services within the Township;
- (5) How the proposed location of the proposed antenna(s) specifically addresses the objective of collocating the antennas of many different providers of wireless communication services on a single supporting structure, while complying with the provisions of this Ordinance; and
- (6) How the proposed location of the proposed antenna(s) specifically addresses the overall objective of providing full wireless communication services within the

Township, while at the same time, limiting the number of towers to the fewest possible, including alternative technologies which do not require use of towers.

(7) How no location or set of locations of higher priority will meet the need to provide the requested wireless communication services.

D. 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.

Board means the Township Planning Board and/or Zoning Board of Adjustment.

Colocation means use of a PWSF 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 PWSF on a structure owned or operated by a utility or other public entity.

Environmental Impact Statement means

- a. An inventory of existing environmental conditions at the project site and in the surrounding region which describe air quality, water quality, water supply, land use, aesthetics, public health, (except as otherwise regulated by the FCC), visual impact and history.
- b. A project description which shall specify what is to be done and how it is to be done, during construction and operation;
- c. A listing of all licenses, permits or other approvals as required by law and the status of each;
- d. An assessment of the probable impact of the project upon all topics described in a.;

- e. A listing of adverse environmental impacts which cannot be avoided;
- f. Steps to be taken to minimize adverse environmental impacts during construction and operation, both at the project site and in the surrounding region;
- g. Alternatives to all or any part of the project with reasons for their acceptability or nonacceptability;
- h. A reference list of pertinent published information relating to the project, the project site, and the surrounding region.

Historic District means any local site(s) or district(s) designated historic, and any site(s) or district(s) listed or determined eligible for listing in the National or State Register of Historic Places.

Personal Wireless Service (PWS) 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.

Personal Wireless Service Facilities (PWSF) means facilities for the provision of wireless communication services, including, but not limited to: telecommunication towers, and related facilities other than PWSEFs.

Personal Wireless Service Equipment Facilities (PWSEF) 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.

Township means the Township of Maplewood.

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

E. Location Priorities: If needed in accordance with an overall comprehensive plan for the provision of full PWS within the Township, antennas, PWSF and PWSEF shall be permitted as follows:

1. Antennas shall be permitted as second principal uses on existing structures at the following prioritized zones:
 - a. Within the SLI, RO, or CI Zones;
 - b. Within the HB Zone;
 - c. Within the OB Zone;
 - d. Within the RB Zone;
 - e. Within the NB Zone;
 - f. Within the CCRC, RGA or Residential Zones.
2. Provided the applicant has established by substantial evidence that no location or set locations set forth in Section E1 provide a location sufficient for the needed wireless communication service, new PWSF's are a permitted conditional use at the following prioritized zones, and provided all of the separation distance, area, set back, height and design criteria requirements listed herein are met:
 - a. Within the RO Zone;
 - b. Withing the SLI Zone;
 - c. Within the CI Zone;
3. No antenna, PWSF or PWSEF shall be permitted in an historic district nor a distance from the border of an historic district less than five (5) times the maximum height of the proposed structure.

F. Separation Distance Requirements: The following separation distance requirements shall apply:

1. If the proposed antenna(s) will be attached to an existing building the following separation distance requirements shall apply:
 - a. Minimum distance between facilities in residential districts or a residential portion of a duly adopted redevelopment area: 500 feet;
 - b. Minimum distance from any historic district line: not less than five (5) times the maximum height of the proposed structure.
 - c. Minimum distance between facilities located in commercial districts: 300 feet;
 - d. Minimum distance between facilities located in industrial districts: 200 feet;
2. If the proposed antenna(s) will be attached to an existing PWSF or similar structure within an industrial district the following separation distance requirements shall apply:
 - a. Minimum distance from any regular residential district line: 750 feet;
 - b. Minimum distance to any historic district line: not less than five (5) times the maximum height of the proposed structure.
 - c. Minimum distance between facilities: 750 feet

G. Area And Setback Requirements:

1. If the proposed antenna(s) will be attached to an existing building or an existing or approved PWSF, no land area shall be required in addition to the land area upon which the existing structure is situated; or
2. If the proposed antenna(s) will be supported by a PWSF:
 - a. The proposed antenna(s) and proposed supporting PWSF tower and ancillary related electronic equipment and any approved building housing the electronic equipment and any approved camouflaging of the PWSF shall be the only land uses located on the proposed PWSF site, whether a separate lot or a leased portion of a lot; and
 - b. Excepting for any access driveway into the property, any required landscaping, and any underground utility lines reviewed and

approved by the Board as part of the site plan submission, no building structure and/or disturbance of land shall be permitted within one hundred feet (100') from any street line, from any other existing or proposed property line, or from any lease line, provided that if a PWSF will exceed one hundred feet (100') in height, the PWSF shall be set back from any street line and from any other existing or proposed property line a distance equal to or greater than the height of PWSF shall be required to be setback a minimum distance of only one hundred feet (100') from any line demarcating the leased premises.

H. Maximum Height:

1. The maximum height of any proposed antenna extending above any existing building or existing structure shall be the minimum height necessary for the proposed installation to provide adequate coverage for the service area.
2. The maximum height of any proposed rooftop PWSEF shall be the height of the tallest accessory rooftop structure, such as a stair or elevator housing, provided that no PSWEF shall be located on the rooftop of any building less than sixty feet (60') in height.
3. The height of any proposed new supporting PWSF shall not exceed one hundred ten feet (110') in height from the lowest elevation on the ground to the highest structure.

I. Design Criteria:

1. All applications for wireless communication antennas shall adhere to the following design criteria:

For location on an existing building or structure:

- a. Minor site plan application to the Board shall be required.
- b. Any antenna(s) located on an existing building shall be surface mounted on the building facade at the roofline or along the exterior parapet wall so as to reasonably blend in with the architectural features of the building.

- c. Antenna(s) and supporting PSWEF shall be of a neutral color that matches, as closely as possible, the background color of the facade on which it is mounted so as to make the antenna(s) and related equipment as visually unobtrusive as possible.
 - d. All ancillary PSWEF shall be housed either within an enclosed area inside the existing building or on the rooftop of the building provided:
 - i. The height of rooftop equipment facilities shall not exceed the height of the tallest accessory rooftop structure such as a stair or elevator housing not more than two hundred fifty (250) square feet in area, and shall be fully enclosed in a cabinet which shall be constructed of a material and color which will match those of the existing rooftop accessory structures as closely as possible; and
 - ii. Documentation by a qualified expert that any existing structure will have sufficient structural integrity to support the proposed antennas and PSWEF shall be provided to the Board.
 - e. Antenna(s), PWSF and PSWEF shall not be visible from any property or public right-of-way within an historic district.
 - f. Any additional public utility lines and/or cables deemed necessary for the operation of the proposed antenna facility shall be located underground. The applicant shall provide documentation to the Board as to the necessity of the additional lines.
 - g. No signage shall be permitted that is visible from adjacent properties or from the public right-of-way.
2. For a new PWSF:
- a. Preliminary and Final Site Plan application shall be required.

- b. Any proposed PWSF shall be a monopole unless the applicant can demonstrate, and the Board agrees, that a different type pole is necessary for the collocation of additional antennas on the tower. 6
- c. Unless otherwise required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC), all PWSFs shall be either constructed of a neutrally colored material or painted or neutral color or camouflaged so as to reduce the visual obtrusiveness. All applicable FAA or FCC standards regarding color or materials that may apply to the proposed tower shall be provided to the Board.
- d. No lighting is permitted on a PWSF except lighting that is specifically required by the FAA and any such required lighting shall be focused and shielded, so as not to project towards adjacent and nearby properties. All applicable FAA standards regarding lighting that may apply to the proposed tower shall be provided to the Board.
- e. All ancillary PWSEF shall be located within a building or enclosed structure which structure shall meet the following design criteria:
- i. Each provider of PWS located on the site may have a maximum of one (1) cabinet enclosing required electronic equipment, which cabinet shall not exceed fifteen (15) feet in height nor more than two hundred fifty (250) square feet in area. All such cabinets shall be located within a building which shall not exceed one and one-half (1.5) stories and twenty (20) feet in height nor one thousand (1,000) gross square feet in area.
 - ii. The structure shall use materials, textures, and colors that together with required screening and landscaping will cause it to blend into the natural setting and surrounding, to the greatest extent possible.

- iii . Provision for colocation of equipment shall be incorporated into the design of the structure.
 - iv. No electronic equipment shall be designed in such a way as to interfere with any public safety communication.
 - v. All equipment shall be automated so that, to the greatest extent possible, the need for on-site maintenance and associated vehicular trips to and from the site will be minimized.
 - vi. Lighting shall be limited to a single light at the entrance to the building which shall be focused downward.
- f. Landscaping shall be provided between the PWSF and also between any building or structure used to house PWSEF and any public street or residential dwelling unit or residential zoning district in accordance with the following:
- i. Required landscaping shall consist of sufficient density of evergreen planting to effectively screen the view of the PWSF base and, in addition, sufficient other plantings which may consist of a combination of shrubs and deciduous trees to screen the PWSF and enhance the appearance of, to the maximum extent reasonably possible, from any surrounding residential properties and from any public street.
 - ii. Any newly planted evergreen trees shall be at least eight (8) feet high at the time of planting and any newly planted deciduous trees shall be a minimum caliper of three and one half (3.5) inches at the time of planting.
 - iii. No signage shall be permitted except warning and/or equipment information signs as deemed necessary or as required by state and/or federal regulatory agency for safety purposes and are specifically approved by the Board.

- g. Minimal off-street parking shall be permitted as needed to provide maintenance at the site and as specifically approved by the Board.
- h. No antenna shall be located on any PWSF in order to provide non-cellular telephone service; such service shall be provided via existing telephone lines if available to the site or by the underground extension of telephone lines to the site if necessary.
- i. Any new PWSF shall be located behind existing buildings and/or natural topographic elevations in order to screen the PWSF 's base from being visible from adjacent properties and from any street right-of-way, no new tower shall be visible from a public street in any residential district.
- j. All PWSF=s shall be secured from the public.
- k. Documentation by a qualified expert that any existing structure will have sufficient structural integrity to support the proposed antennas and ancillary equipment shall be provided to the Board.
- l. The applicant must supply an Environmental Impact Statement sufficient to establish that the construction of a PWSF or PWSEF will not violate any Federal, State, County or Local law or regulation, or otherwise have significant negative environmental impact on the project site.

J. Historic Preservation Commission Review

Whenever a PWSF or antenna is proposed for a site within an historic district or within a distance five (5) times the proposed height of the structure from the border of an historic district, the application shall be forwarded to the Maplewood Historic Preservation Commission for review and recommendation to the Maplewood Township Committee and to the referring Board.

K. Radio Frequency Emissions:

Applicants shall provide current FCC information concerning PWSF and Radio Frequency (RF) emission standards to the Board. Upon documentation by a

qualified expert, proposed wireless communication antenna projects which meet the current FCC Standards shall not be conditioned or denied on the bases of RF impact.

L. Removal of Abandoned PWSF:

Any PWSF that does not operate for a continuous period of six (6) months shall be considered abandoned. The owner of such PWSF or the owner of the property upon which it is located shall remove same within ninety (90) days of notice from the Zoning Officer that the PWSF is abandoned. If the PWSF is not removed within ninety (90) days, the Township shall remove such PWSF at the owner's expense.

Prior to construction, the owner of a PWSF/PSWEF shall establish a \$10,000.00 cash security fund or provide an irrevocable letter of credit in the same amount with the Township to secure the cost of removing the PWSF/PSWEF that has been abandoned. In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of this requirement and notifying the Township of the transfer.

M. Non-conforming PWSF: Any PWSF in existence on the date of the adoption of this Ordinance, which does not comply with the requirements of this Ordinance are subject to the following provisions:

- 1 Non-conforming PWSF may continue in use for their purpose now used, but may not be expanded without complying with this Ordinance;
- 2 Non-conforming PWSF which are partially damaged or destroyed due to any reason or cause may, within 90 days, be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefore, but without otherwise complying with this Ordinance.
If this destruction is greater than partial, then repair or restoration will require compliance with this Ordinance. Alternatively, the PWSF will be considered abandoned.
- 3 The owner of a non-conforming PWSF may repair, rebuild and/or upgrade, but not expand or increase the height or reduce its set backs in order to improve the structural integrity

of the facility, to allow the facility to accommodate pole location antennas or facilities, or to upgrade the facilities to current engineering, technical or communication standards, without having to conform to provisions of this Ordinance.

N. **Noise**: No equipment shall be operated so as to produce noise in excess of limits set by local Noise Ordinance, except in emergency situations requiring the use of a back-up generator.

O. **Maintenance**: PWSF shall be maintained to ensure their continued structural integrity. The owner of the PWSF shall also perform such other maintenance of the structure and of the site as to ensure that it does not create a visual nuisance.

SECOND: **Severability**

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

THIRD: **Repeal of Prior Ordinances**

Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any such inconsistencies.

FOURTH: **Effective Date**

This Ordinance shall take effect after final passage and publication according to law.

PUBLIC NOTICE is hereby given that the foregoing proposed Ordinance was introduced and read by title for the first time at a meeting of the Township Committee of the Township of Maplewood, held on May 6, 2003 and that Committee met again on May 20, 2003, at 8:00 p.m. at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Committee proceeded to consider the said Ordinance on second reading and final passage.

ELIZABETH J. FRITZEN, R.M.C.
Township Clerk