

TOWN OF NEWPORT
NEWPORT, DELAWARE

ORDINANCE NO. 445

AN ORDINANCE TO AMEND ORDINANCE NO. 407, THE ZONING ORDINANCE OF THE TOWN OF NEWPORT, TO PERMIT TELECOMMUNICATION TOWERS AND RELATED EQUIPMENT IN THE GENERAL INDUSTRIES (GI) DISTRICT WITH CERTAIN CONDITIONS.

WHEREAS, the Mayor and Commissioners deem it desirable to amend the Zoning Ordinance of the Town of Newport as it relates to telecommunication towers;

NOW THEREFORE, THE COMMISSIONERS OF THE TOWN OF NEWPORT HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Ordinance No. 407, the Zoning Ordinance of the Town of Newport be amended as follows:

- a. Amend Article IX, Section D. **Definitions** by adding the following definition to said section to read as follows:

“TOWER, BROADCASTING AND TELECOMMUNICATIONS: An above-grade tower or similar structure more than 20 feet in height for communications equipment principally intended for the transmittal or reception of commercial, governmental, and related radio, television, microwave, cellular phone, and similar telecommunications signals. Towers or similar structures for the above uses, installed on tops of or attached to buildings, water tanks, or similar facilities shall be included in this definition, if the total height of the tower/structure exceeds 15 feet above the peak of the roof. This definition includes the accessory buildings, storage facilities, and related equipment required for broadcasting and telecommunications antennas that may be attached to or on the facades of buildings and structures, provided, however, this definition shall not include the Police and Fire Departments and municipal services provided by the Town of Newport. “

- b. Amend Article VIII, Section B. **Special Uses** by adding the following subsection to said section to read as follows:

“10. Tower, broadcasting and telecommunications as defined in Article IX, Section D subject to the following special requirements:

- a. Tower applications shall be accompanied by a licensed (in the State of Delaware) professional engineer’s report containing the following:
 1. A technical evaluation of the feasibility of attaching the tower or antenna existing buildings, such report to include a structural opinion and report.
 2. A technical evaluation of the utilization of existing towers for telecommunications or other equipment intended for installation on the proposed tower.
 3. A technical evaluation of the feasibility of attaching the tower or antenna to existing buildings, such report to include a structural opinion and report.
 4. Certified copies of all applicable state and federal permits, with any attachments, exhibits and all action thereon.
 5. Copies of all applicable state and federal permits.
- b. Any principal part of the tower, excluding guy cables, shall be set back from the nearest property line of a church, library, school, nursing home, hospital, or lot zoned residential (R-1, R-2, R-3, or RB) not less than two times the height of the tower or 200 feet, whichever is greater. The setback shall be measured from the nearest point of the property line of the protected use.
- c. No artificial light shall be installed upon any such tower unless required by the Federal Aviation Administration . If such light is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.
- d. Towers over 200 feet in height shall be guyed and not self-supporting nor consisting of lattice type structures, unless the applicant demonstrates that a guyed tower shall have a greater negative visual impact than a self-supporting tower.
- e. Towers located on existing buildings or structures shall not extend beyond 22 feet above the highest point of the building or structure. Accessory

buildings or facilities for towers located on existing buildings or structures shall be located either in or on top of such buildings or structures.

- f. Landscaping shall be provided around the base of the tower and adjacent to a required security fence that shall be at least 10 feet high. The landscaping shall consist of a minimum 25 foot wide planting strip with ground cover and/or grass including at least one row of six foot high evergreen trees providing a solid screen adjacent or proximate to the fence, and 15 foot high, two inch caliper deciduous trees, interspersed within the buffer area and no more than 20 feet apart. Applicants may substitute alternative landscape plans that meet the purposes of this subsection to limit the visual impact of the lower portion of the tower and adjoining accessory facilities. Camouflaged towers designed to look like trees may be exempt from this subsection, subject to Council approval. Towers located on top of buildings three stories or more in height and telecommunication antennas located on existing buildings shall be exempt from this subsection, except that a six foot high solid evergreen screen shall be required between any telecommunications antenna or tower accessory building and adjoining properties. A 10 foot high security fence shall be provided around the anchoring facilities for guy wires for guyed towers.
- g. No outdoor storage shall be permitted at the tower site.
- h. Unless otherwise required by the Federal Aviation Administration or the Federal Communications Commission, the Tower shall be light gray in color. Telecommunications towers designed to look like trees may be exempt from this subsection, subject to approval by the Zoning Administrator. Telecommunication antennas with colors designed to match buildings or structures to which they are attached shall be exempt from this subsection.
- i. A tower shall be located so as not to encroach into any established public or private airport approach as established by the Federal Aviation Administration.
- j. Towers higher than 100 feet must be a minimum of 2000 feet from the nearest similar tower, measured from the base of the towers.
- k. New telecommunications facilities may be attached to an approved tower without applying for an additional special use permit so long as the new facility is in compliance with the requirements and standards of this section.

- l. No interference with existing television, cable television, radio signals, or other electronic devices shall be permitted from the tower. If interference occurs, it shall be immediately remedied by the operators of the tower.
- m. If a tower is abandoned, unused for two years, or no longer operable, it shall be removed within six months of its abandonment. If a tower is not dismantled as specified in this subsection, the Town shall arrange to have the facility dismantled and will assess the landowner all costs associated with the removal of the tower. If the full amount due the Town is not paid by the owner, or person in control of the property, or his or her agent, within 90 days of receipt of a bill from the Town, the Town cause a special assessment to be recorded in the municipal lien docket. The recordation of such special assessment shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made.
- n. That the owner of such tower shall provide proof to the Town that the tower has undergone a triennial inspection for structural integrity. Said inspection is to be performed by a certified engineer, or other qualified professional, at the expense of the owner of the tower. If structural deterioration is found to be present, and such deterioration affects the physical stability or aesthetic integrity of the tower, the owner shall be required to correct such deterioration within the time limit to be established by the building department.
- o. The owner of such tower shall give proof of financial responsibility of the owner to the Town in a form deemed satisfactory (bond, insurance, deposit, etc.) to the Town that any damages which may occur to surrounding properties or injury which may occur to persons, which damages or injuries are caused by failure of the tower and/or its associated structural supports, regardless of whether such failure is a result of human error or an act of God, shall be paid by the owner of the tower and/or insurers of the tower.
- p. No tower shall be closer to the property line of the property on which it is erected by more than 125% of the height of the tower.:"

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Commissioners hereby declare that they

would have passed this Ordinance and each section, subsection, clause or phrase irrespective of the fact that any one or more thereof is declared unconstitutional or invalid.

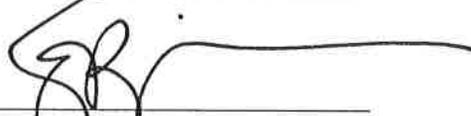
SECTION 3. Ordinances, or parts of ordinances in conflict herewith are hereby repealed, provided that any such repeal shall not abate a right of action already accrued under any repealed ordinance.

SECTION 4. The Town Secretary shall certify to the adoption of this Ordinance; and this Ordinance shall take full force and effect immediately after this date of final passage and approval.

First Reading: _____

Second Reading: _____

APPROVED AS TO FORM:

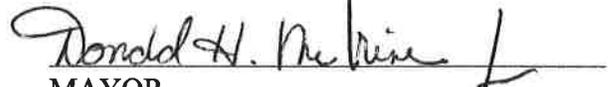


TOWN SOLICITOR

ATTEST:



TOWN SECRETARY



MAYOR



COMMISSIONER



COMMISSIONER



COMMISSIONER

COMMISSIONER