

ARTICLE VI. SPECIAL EXCEPTION REGULATIONS

SECTION 601. GENERAL DESCRIPTION

Special exceptions are deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in this Article and all other applicable requirements of this Ordinance. The Zoning Hearing Board may attach additional conditions to its approval of a Special Exception which are necessary in order more nearly to carry out the objectives and purposes of this Ordinance and the “Pennsylvania Municipalities Planning Code”, to preserve and protect the character of the particular district in which the proposed use would locate, and to promote and facilitate the public health, safety, and general welfare.

SECTION 602. PROCEDURES AND PLAN REQUIRED

The application for the special exception shall first be submitted to the Zoning Officer. The Zoning Officer shall review the submittal to determine if it is in a form that complies with the terms of this Zoning Ordinance. If the submittal is found by the Zoning Officer, within five (5) days of the date of its submittal, to be incomplete, it shall be returned to the applicant, as not having been properly filed. If the submittal is found to be in accordance with this ordinance, the same shall be certified to the Zoning Hearing Board by the Zoning Officer. Such submittals shall be on forms provided by the Township. Submittals shall include the appropriate fee, to be set by resolution of the Board of Supervisors. Submittals shall also conform to the following:

- A. The applicant shall submit an 8 ½ X 11 inch or larger to scale plot plan showing the location of all property lines, roads, wells, sewage systems, drainage ditches, creeks, parking areas, existing structures with proposed additions and/or changes and any additional information relevant to determine if there is compliance with all applicable ordinance provisions and all Other Provisions.
- B. The applicant may also be required to submit an 8½ X 11 inch or larger scale sketch of proposed additions and changes of the immediate area effected, if the plot plan above is of a rather large property.
- C. All lot and yard dimensions must be shown on the drawings and a copy of any sewage module must be attached.
- D. Five copies of all documents shall be submitted.
- E. Minimum scale of area plan shall be 1.4 inch = 10 feet.
- F. The application shall refer to the specific section of this Ordinance under which the special exception is provided for and shall state the conditions on which it is requested.
- G. The applicant shall provide to the Zoning Officer a list of names and addresses of all property owners within one hundred (100) feet of the property requesting the Special Exception, said one hundred (100) feet to be measured from all lot lines of said property. The Zoning Officer

may (but need not) give notice of the hearing to all persons whose names appear on said list.
[Added by Ord. 02-061190, 6/11/90, §10.]

SECTION 603. GENERAL STANDARDS

A. Pursuant to Section 912.1 of the “Pennsylvania Municipalities Planning Code”, the Board of Supervisors hereby determines that the following additional standards and criteria shall apply to all special exceptions:

1. The specific site must be an appropriate location for such use.
2. The use as developed will not adversely affect the district.
3. There will be no nuisance or hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The lot requirements, yard requirements, and height limitations are satisfied according to the district regulations. Where no specific regulation appears, the Zoning Hearing Board shall apply reasonable similar regulations considering adjoining uses.
6. Off-street parking and loading requirements of the district are met.
7. Utilities are available to adequately service the proposed use.
8. The land which is to be used is not currently in violation of this Zoning Ordinance or Other Provisions.
9. The plan clearly establishes that the applicant can comply with all Other Provisions including, but not limited to, the SALDO and the SWMO. *[Added by Ord. 051214A: 05/12/14 §12]*

[Amended by Ord. 02-061190, 6/11/90, §II.]

B. The foregoing standards and criteria are in addition to, and not by way of limitation of, any other standards and criteria that may be found elsewhere in this Zoning Ordinance.

SECTION 604. HOME OCCUPATIONS.

Home occupations, where permitted by special exception pursuant to this Zoning Ordinance are subject to the following additional standards:

- A. No person other than members of the family residing on the premises shall engage in such occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. No more than two (2) persons not resident of the premises shall be employed for supporting services, whether on premises or off premises.

D. The only retail sales permitted shall be those of products produced by or used in the home occupation.

E. No storage of materials or products in open areas shall be permitted.

F. No display of products produced shall be visible from the street.

G. No displays or change in the building facade shall indicate from the exterior that the dwelling is being utilized for purposes other than a dwelling.

H. No noise, odor, dust, vibration, electromagnetic interference, smoke, hears or glare shall be perceptible at or beyond the lot boundaries, nor shall any potentially dangerous effluent be discharged.

I. Off-street parking shall be provided pursuant to Article V hereof. A minimum of four (4) off-street parking spaces shall be provided.

J. No home occupation shall be permitted, unless on a lot containing at least fifteen thousand (15,000) square feet.

K. No more than five (5) vehicle trips in any one day may be generated to or from the home as a result of the occupation. [Amended by Ord. 01-3-25-85, 3/25/85, §II.]

L. Notwithstanding anything contained herein to the contrary or in the definition of "home occupations", Home Occupations shall be allowed, by special exception, in detached accessory structures (to homes) if all other criteria (including that criteria arising out of the definition of HOME OCCUPATIONS) contained in this ordinance are met. [Added by Ord. 01-3-25-85, 3/25/85, §II.]

SECTION 605. CEMETERIES

Cemeteries, where permitted by Special Exception pursuant to this Zoning Ordinance, are subject to the following additional standards.

A. No crematoriums or mausoleums are permitted in the Agricultural Zone.

B. The minimum area to be set aside as a cemetery shall be 7,500 square feet and the maximum area shall be 43,560 square feet.

C. Where the proposed cemetery does not have road frontage, a dedicated means of access shall be provided. Access drives need not be paved.

D. Cemeteries shall in all respect comply with Act 271 of 1972 if applicable.

E. Applicants for a Special Exception shall submit a proposed landscaping plan as part of their application.

F. Cemeteries must be enclosed by a continuous fence or wall, incapable of being easily penetrated by rodents or livestock, with a minimum height of four feet and a maximum height of five feet.

[Added by Ord. 11-9-92, 12/14/92, § 2.]

SECTION 606. COMMUNICATION ANTENNA SITES

The following criteria apply to all Communication Antennas and Communication Antenna Sites in Clay Township.

A. Any applicant for erection, alteration or use of a Communication Antenna or Communication Antenna Site structure shall be by Special Exception and the Applicant shall bear the burden of clearly demonstrating compliance with all of the following standards and criteria:

1. The application shall demonstrate, through technological evidence and data that the proposed location is absolutely necessary for the operation of the system.

2. Any stand-alone structure not attached to an existing building shall be set back from each property line and from any building that is not part of the Communication Antenna Site a distance equal to its height, but in no circumstances less than 50 feet from any property line or any such building. This set back shall also be applicable to guide wire anchors for the structure. Any structure shall be provided with warning signage for potential radiation danger, if any. Shielding shall be installed if there is any potential radiation.

3. All communication towers shall be completely enclosed by an eight (8) foot high non-climbable fence with razor wire above the 8 feet and a self-locking gate.

4. There shall be no electrical, electromagnetic or microwave or other interference or pollution off-site.

5. The applicant shall demonstrate that surrounding areas will not be affected by support structure failure, falling ice or other debris. All support structures shall be fitted with anti-climbing devices as approved by the manufacturer.

6. The applicant shall demonstrate that the antenna and communications tower is the minimum height required to function satisfactorily. No structure that is taller than this minimum height shall be approved. This requirement shall not be applicable to antennas located upon an existing structure where the total height of the structure and antenna does not exceed one hundred fifty (150) feet.

7. If the applicant proposes to erect a new communication tower, the applicant shall demonstrate that it has contacted the owners of other structures within a one mile radius of the proposed site and has requested permission to install the antenna on those structures. The applicant shall clearly demonstrate that it is not feasible to erect the antenna on these existing structures. The applicant shall make a good faith effort to install the antenna on existing structures, including but not limited to flag poles, bell towers, smoke stacks, water towers, silos, electrical transmission facility, tall commercial towers of other communication companies, and similar structures.

8. In order to reduce the number of communication towers needed in the Township in the future, any new proposed communication tower shall be designed to accommodate other users, including but not limited to police, fire and emergency services. Applicant shall submit an Agreement with the Township whereby it agrees to negotiate in good faith with subsequent lessees to lease the communication tower for co-usage.

9. If the use of the site requires licensing by any state or federal agency, including but not limited to the Federal Communications Commission, the applicant shall present evidence that it has obtained such licenses and shall present a copy of applicant's application to such entities and all decisions by such entities.

10. If the site operation is fully automated, the applicant shall provide off-street parking required for two (2) maintenance workers. If the operation is not fully automated, the applicant shall provide off-street parking spaces equal to the largest number of persons on the largest shift working on the property, but not less than two (2).

11. The applicant shall not be permitted to maintain any use on the leased or divided property, other than the Communication Antenna site, unless such other use is also permitted within the applicable zoning District and is not a commercial sign.

12. The applicant shall install landscaping to screen the fence and site and any ground level features, including but not limited to buildings, which may be installed. Landscaping shall consist of evergreen trees to be planted on ten (10) feet center maximum which shall have a minimum height of six (6) feet at the time of planting. The Board may require further deciduous plantings to mitigate the impact of the development on the surrounding neighborhood. all landscaping must be installed prior to the issuance of a Certificate of Use and Occupancy by the Zoning Officer. Existing vegetation on and around the site shall be preserved unless absolutely necessary to be removed for functioning of the equipment. This requirement shall not be applicable to antennas located upon an existing structure where the total height of the structure and antenna does not exceed one hundred fifty (150) feet.

13. Communication towers shall be painted with paint such to significantly reduce the visual impact thereof; provided, however, these requirements shall not apply to an antenna which is installed upon an existing structure that is not exclusively an antenna support structure. Support structures shall be painted green or brown up to the height of nearby trees to lessen visual impact. Communication towers shall meet all minimum Federal Aviation

Administration regulations. No Communication Tower may be artificially lighted except when required by the Federal Aviation Administration or by state regulations. All lighting shall be shielded and provide an anti-glare screen to prevent glare from reaching the surface of the land.

14. The applicant shall submit a plan for the removal of the facility when it becomes functionally obsolete or is no longer in use.

15. No communications antenna site shall be used for holding advertising signage.

16. Use of any structure, other than the Communication Tower, shall be limited to that clearly necessary for functioning of the equipment.

17. No communication antenna site shall be located within one thousand feet (1000) of any dairy barn or sow gestation unit on a farm.

[Ord. 12-13-00-D, 12\13\00, § 1.]

18. Applicant shall submit a copy of applicant's Section 106 National Register of Historic Places report, application, and response thereto and shall prove that the proposed location and structure do not significantly adversely affect the quality and character of historic resource.

19. In the event the proposed Communication Antenna Site or Communication Tower is on land separately deeded for said purpose, the minimum lot size for the location shall be the greater of one acre or any greater lot size requirement of that zoning district. In the event that the land is leased from an owner, a copy of the lease shall be submitted with the application and applicant shall demonstrate compliance with the other general setback and applicable requirements of the zoning district, without the necessity of having to comply with minimum lot size.

20. The maximum heights (including antennas) of all communication towers or roof mounted communication antenna sites shall not exceed two hundred (200) feet from ground level, unless Applicant can clearly demonstrate an absolute need and no alternative availability of technology that might be used to limit such height.

21. All access roads to communication antenna sites shall contain a right-of-way of at least twenty (20) feet, ten (10) feet of which shall be improved with a hard surface in compliance with the driveway requirements of the Clay Township Subdivision and Land Development Ordinance.

22. If a communication tower, communication equipment building, or antenna cease being used or are abandoned for a period of one (1) year the owner, lessor, or operator shall dismantle and remove all improvements within six (6) months following notice to do so by the Township Board of Supervisors. Any Communication Antenna Tower shall be initially constructed

in a fashion that the Township can be reasonably assured of proper access for purposes of subsequent removal.

B. In the case of roof-mounted Communication Antenna Sites, the following additional criteria shall apply:

1. Unless communication requirements absolutely require another location, any roof-mounted antenna site shall be installed only on that portion of the roof facing the rear of the property.

2. No roof-mounted antenna site shall project more than five (5) feet above the roof line unless the applicant shall demonstrate that unique site constraints create interference which mandate a higher placement in order to provide for proper reception. The Applicant shall provide clear and convincing evidence of the interference which mandate a higher placement and clear and convincing evidence that the placement requested is the minimum necessary for proper reception.

3. If there is any radiation potential, the applicant shall provide shielding and warning signage.

4. In the case of commercial satellite dishes, the Applicant shall also demonstrate that unique site constraints prohibit placement of the dish directly on the ground and therefore require the proposed elevation.

5. No roof-mounted Communication Antenna shall be located upon a residential dwelling.

6. Omnidirectional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.

7. Directional or panel Communications Antennas shall not exceed five (5) feet in height and three (3) feet in width.

8. Any Applicant proposing Communications Antennas to be mounted on a Building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.

C. 1. At the time of the Application, each Applicant shall also attach to Applicant's application a clear and concise plan, drawn by an engineer or surveyor to scale, showing all proposed improvements together with all evidence each Applicant intends to submit to the Zoning Hearing Board to show compliance with Subsections A1, A6, A7, A8, A9, A13, A14, A17, A18, A19, A22, B2, B4, and B8 hereof.

[Ord. 051198, 5/11/98, §18.]

SECTION 607. BURDEN OF PROOF

In any proceedings before the Zoning Hearing Board, whether through its original jurisdiction or by appeal, the applicant shall bear the burden of proving compliance with the provisions of this ordinance.