

BOROUGH OF MOUNT JOY
Lancaster County, Pennsylvania

ORDINANCE NO. 2-17

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF MOUNT JOY, CHAPTER 270, ZONING, TO REVISE AND ADD REGULATIONS GOVERNING ACCESSORY FREE LIBRARIES, CERTAIN COMMUNICATION TOWERS, AND BY CHANGING THE ZONING CLASSIFICATION OF A TRACT OF LAND AT THE SOUTHWEST CORNER OF THE INTERSECTION OF DONEGAL SPRINGS ROAD AND UNION SCHOOL ROAD IN THE BOROUGH OF MOUNT JOY, LANCASTER COUNTY, PENNSYLVANIA CONTAINING APPROXIMATELY 4.6 ACRES, FROM LDR LOW DENSITY RESIDENTIAL TO NC NEIGHBORHOOD COMMERCIAL, AND TO DELETE CERTAIN PARKING REGULATIONS FROM CHAPTER 255 VEHICLES AND TRAFFIC.

BE IT IS HEREBY ORDAINED AND ENACTED by Mount Joy Borough Council of Mount Joy Borough, Lancaster County, Pennsylvania, as follows:

Section 1. The Code of Ordinances of Mount Joy Borough, Chapter 270 thereof, Zoning, Article II, Terminology, §270-32 Definitions, is amended by adding the following definitions in alphabetical order:

1. Accessory Free Library – A container of books, posted in an accessible spot, often in a residential yard near a sidewalk from which persons may take books or to which persons may donate books.

Section 2. The Code of Ordinances of the Borough of Mount Joy, Chapter 270, thereof, Zoning, Article IV, Specific Use Regulations, §270-63 Accessory Uses, subsection 270-63.D Special Standards shall be amended to insert a new Paragraph (16) which shall provide as follows:

(16) Accessory Free Libraries.

- (a) Accessory free libraries are allowed in all zoning districts as an accessory use to a principal use of the lot.
- (b) Front yard. Any accessory free library may be located in the front yard of a lot, provided that it meets the following:

- [1] Not to exceed 4.5 cubic feet.
 - [2] Be anchored to the ground or otherwise securely attached to something having a permanent location to the ground.
 - [3] Not to be housed in an old appliance such as a refrigerator.
 - [4] Cannot contain any other such signs on the premises or in the right of way to advertise the accessory free library other than a sign on the structure itself.
- (c) **Setbacks.** An accessory free library may be constructed without a setback from a lot line in all zoning districts provided that it does not:
- [1] Obstruct vehicular, bicycle or pedestrian traffic, either physically, or by a person utilizing the accessory free library;
 - [2] Obstruct access aisles or paths utilized by persons in wheelchairs or for ADA accessibility.

Section 3. The Code of Ordinances of the Borough of Mount Joy, Chapter 270, thereof, Zoning, Article IV, Specific Use Regulations, §270-62. Principal uses shall be amended to insert a new Paragraph (SS) which shall provide as follows:

(SS) **Communication Antennas, Towers, and Equipment Located Within a Public or Private Street Right-of-Way.**

- (1) **Communication antennas, towers, and equipment shall be permitted by special exception within the rights-of-way of public or private streets only within the Light Industrial (LI) Zoning District, Campus Industrial (CI) Zoning District, and General Industrial (GI) Zoning District, and only if the communications tower, antenna, and equipment meet all of the following requirements:**
 - [a] **Towers and equipment prohibited in areas served by underground utilities. No communications antennas, towers or equipment shall be installed within a public street right-of-way or a private street right-of-way where utility facilities serving lots abutting such street are located underground. Communications antennas, towers, and equipment shall be installed only within rights-of-way of streets where there are utility poles and overhead wires existing on June 5, 2017.**
 - [b] **Co-locations. An application for a new communications tower in a street right-of-way shall not be approved unless the Borough finds that the proposed wireless**

communications equipment cannot be accommodated on an existing structure, such as a utility pole or traffic light pole. Any application for approval of a communications tower shall include a comprehensive inventory of all existing towers and other suitable structures within a one-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Borough that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.

- (2) Time, place and manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications towers in the public street right-of-way based on public safety, traffic management, physical burden on the public street right-of-way, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.
- (3) Equipment location. Communications towers and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic or to otherwise create safety or health hazards to residents, pedestrians and/or motorists, or to otherwise inconvenience the public use of the public street right-of-way as determined by the Borough. In addition:
 - [a] In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - [b] Ground-mounted equipment that cannot be installed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
 - [c] All required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
 - [d] Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 30 business days of notice of the existence of the graffiti.
 - [e] Any underground vaults related to communications towers shall be reviewed and approved by the Borough.
- (4) Design regulations.
 - [a] The communications antennas and communications tower shall employ the most current stealth technology available

in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the applicant shall be subject to the approval by the Borough.

- [b] Any substantial change to an existing communications tower shall require approval of the Borough.
 - [c] Any proposed communications tower shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennae of future users, including antenna for public safety needs by emergency responders.
 - [d] The height of any communications tower shall not exceed forty (40) feet. Any height extension to an existing communications tower shall require an additional special exception. Guy wires are not permitted. Any communications tower shall be self-supporting.
- (5) Additional antennae. The applicant shall allow and encourage other service providers to co-locate antennae on communications towers where technically and economically feasible. The owner of a communications tower shall not install any additional antennae without obtaining the prior written approval of the Borough.
- (6) Relocation or removal of facilities. Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, the owner of a communications tower and/or equipment in the public street right-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications tower and/or equipment when the Borough, consistent with its police powers and applicable Public Utility Commission regulation, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- [a] The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way.
 - [b] The operations of the Borough or other governmental entity in the right-of-way.
 - [c] Vacation of a street or road or the release of a utility easement.
 - [d] An emergency as determined by the Borough.

- (7) Compensation for public street right-of-way use. Every communications tower and/or communications equipment in the public street right-of-way is subject to the Borough's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the public street right-of-way. Such compensation for public street right-of-way use shall be directly related to the Borough's actual public street right-of-way management costs including, but not limited to, the cost of administration and performance of all reviewing, inspecting, permitted, supervising and other public street right-of-way management activities by the Borough. The owner of each communications tower, and/or communications equipment shall pay an annual fee to the Borough to be established by an Agreement or Resolution.
- (8) The owner and/or lessee of any communication antennas, towers, and equipment located within a public right-of-way shall be required to provide a certificate of insurance to the Borough providing evidence of liability insurance of not less than \$1,000,000 and naming the Borough as an additional insured on the policy or policies of the owner and/or lessee.

Section 4. The Code of Ordinances of the Borough of Mount Joy, Chapter 270, thereof, Zoning, Article III, District Regulations, §270-47.B.(1) The Table of Permitted Uses, subsection (b) Primarily Nonresidential Districts, shall be amended to include an entry for "Communication Antennas, Towers and Equipment Located Within a Public or Private Street Right-of-Way," to provide as follows:

TYPES OF USES	ZONING DISTRICTS					
	CBD	NC	GC	LI	CI	GI
Communication Antennas, Towers And/Or Equipment Located Within a Public or Private Street Right-of-Way	N	N	N	SE	SE	SE

Section 5. The Code of Ordinances of the Borough of Mount Joy, Chapter 270, §270-43, Zoning Map, is hereby amended by changing the zoning classification of a tract of land located at the southwest corner of the intersection of Donegal Springs Road and Union School Road identified as 800 Donegal Springs Road, Lancaster, County Tax Account No. 450-10819-0-0000 containing approximately 4.6 acres, from its present classification of LDR Low Density Residential District to NC Neighborhood Commercial District.

Section 6. The Secretary of the Borough is directed to change, and duly certify the Mount Joy Borough Zoning Map so as to effectuate the reclassification of this tract of land located at the southwest corner of the intersection of Donegal Springs Road and Union School Road identified as 800 Donegal Springs Road, Lancaster, County Tax Account No. 450-10819-0-0000 containing approximately 4.6 acres, from its present

classification of LDR Low Density Residential District to NC Neighborhood Commercial District.

Section 7. The Code of Ordinances of Mount Joy Borough, Chapter 255 thereof, Vehicles and Traffic, Article IV, Parking Regulations, §255-62 General parking restrictions, is amended by deleting the following:

E. No person shall park or permit to be parked a trailer, camper, camper trailer, boat and trailer combination or utility trailer, loaded or unloaded, upon a public street in excess of 48 hours.

Section 8. All other sections, parts and provisions of the Code of Ordinances of the Borough of Mount Joy shall remain in full force and effect as previously enacted and amended.

Section 9. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of Borough Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 10. This Ordinance shall take effect and be in force from and after its enactment as provided by law.

DULY ORDAINED AND ENACTED this 5 day of June, 2017, by Borough Council of the Borough of Mount Joy, Lancaster County, Pennsylvania, in lawful session duly assembled.

BOROUGH OF MOUNT JOY
Lancaster County, Pennsylvania

Attest: Jamuel Sulzky
(Assistant) Secretary

By: Charles E. Glessner,
~~(Vice)~~ President
Borough Council

[BOROUGH SEAL]

Examined and approved as an Ordinance this 15 day of June, 2017.

[Signature]
Mayor

CERTIFICATE

I, THE UNDERSIGNED, (Assistant) Secretary of the Borough of Mount Joy, Lancaster County, Pennsylvania ("Borough") certify that: The foregoing is a true and correct copy of an Ordinance of Borough Council of the Borough which duly was enacted by affirmative vote of a majority of the members of Borough Council of the Borough of Mount Joy at a meeting duly held on the 5 day of June, 2017; and was examined and approved by the Mayor; such Ordinance has been duly recorded in the Ordinance Book of the Borough; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that Borough Council of the Borough of Mount Joy met the advance notice and public comment requirements of the Sunshine Act, 53 Pa C.S. §701 et seq., as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting at the principal office of the Borough of Mount Joy or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough of Mount Joy, this 5 day of June, 2017.

Amuel Sullosky
(Assistant) Secretary

[BOROUGH SEAL]

