

ORDINANCE NO. 2001-22

TOWNSHIP OF MEDFORD

AN ORDINANCE OF THE TOWNSHIP OF MEDFORD IN THE COUNTY OF BURLINGTON AMENDING THE MEDFORD TOWNSHIP LAND DEVELOPMENT ORDINANCE BY AMENDING CHAPTER 203 “DEFINITIONS”, CHAPTER 531 “AMATEUR RADIO ANTENNAS”, AND CHAPTER 604.A “HEIGHT LIMITATIONS” TO GOVERN AMATEUR RADIO ANTENNAS AND ANTENNA SUPPORT STRUCTURES WHOSE HEIGHTS EXCEED PREVAILING ZONING ORDINANCE LIMITS.

WHEREAS, the Federal Communications Commission of the United States of America (“FCC”) has issued and Order declaring a limited preemption over local regulation of amateur radio antenna facilities (known as “FCC Order PRB-1”) appearing at 101 FCC 2d 952; 50 Fed. Reg. At 38813-38816 (1985)), the policy of which limited preemption is to require that amateur radio communications be reasonably accommodated by local regulation and to preempt local land use regulations which unduly restrict effective amateur radio communications beyond the minimal practical regulation appropriate to accomplish the local authority’s legitimate purpose and

WHEREAS, in compliance with FCC Order PRB-1 the Township Council intends for the provisions of this Ordinance to accommodate reasonably such amateur radio communication as may be within the jurisdiction of the Township, and that to that end, to authorize the Planning Board of the Township to conduct reviews and impose such specific conditions on construction as the Planning Board in its discretion deems proper under the terms of this Ordinance and the then existing preemption policy of the FCC; and

WHEREAS, the Planning Board shall be both bound and instructed by the promulgated limited preemption policy of the FCC, including FCC Order PRB-1, and other and future such FCC orders, ruling and applicable pronouncements of policy; now, therefore:

BE IT ORDAINED, by the Township Council of the Township of Medford in the County of Burlington, that:

SECTION ONE. The Medford Township Land Development Ordinance, together with all amendments and supplements thereto, shall be and hereby is amended as follows:

A. The following definitions are added to Section 203, where appropriate:

Amateur Radio Antenna are the arrangement of wires or metal rods used in the sending and receiving of electro-magnetic waves.

Amateur Radio Station is a radio station operated in the Amateur Radio Service under license by the Federal Communications Commission.

Amateur Radio Antenna Support Structure is any structure, mast, pole, tripod or tower utilized for the purpose of supporting an antenna or antennas for the purpose of transmission or reception of electro-magnetic waves (by Federally licensed amateur radio operators).

B. The following section shall be created and added to the Land Development Ordinance, at Section 531:

Section 531. Amateur Radio Antennas and Antenna Support Structures.

1. Antenna support structures of amateur radio operators licensed by the Federal Communications Commission may, as a right, have a height not exceeding one hundred (100) feet above grade, subject to the provisions of this Section. The height shall be measured vertically and shall include the height to any building upon which the antenna support structure is mounted. Every antenna and antenna support structure shall be located in conformity with this Section, as same may be amended and

supplemented, and, in any case, to the rear of the front line (or extended front line) of the main building on the same lot. In addition, no antenna support structure or antenna shall be located between any principal building and the street line. Every antenna and antenna support structure shall be set back at least twenty feet (20') from side and rear property lines. In order to obtain a building permit for the structure, the applicant shall provide a copy of his or her valid Federal Amateur Radio Operating License.

2. Antenna may be located above the antenna support structure as reasonably necessary for effective radio communications.
3. Where the height of the antenna support structure is to exceed the height otherwise permitted in a district, the Planning Board shall review the site plan, including detail of proposed structures and such other information as may be submitted by the applicant to the Building Inspector, and may impose reasonable conditions on the proposed construction necessary to protect public health and safety and to serve the purposes of the Municipal Land Use Law (N.J.S.A. 40:550-1, et seq., as amended and supplemented) and other applicable law including, to the extent permitted by law, the protection and promotion of aesthetic interests. The Planning Board shall afford the public an opportunity to be heard as part of the review process, upon such notice to be given as the Planning Board deems appropriate.
4. Any existing antenna support structures accommodating only amateur radio communication that were previously approved by permit or variance approval is hereby permitted under this ordinance as a grandfathered use.
5. Upon the FCC-licensed operator's cessation of ownership or leasehold rights in the subject antenna support structures, or upon the loss of his or her Federal amateur radio operator's license (whichever shall occur earlier), the operator shall forthwith (but in no case later than 30 days after written notice to the operator and to the owner of record of the subject lot if known, or if not known, then to the assessed owner, sent by certified mail, return receipt requested) safely remove all antenna support structures at no expense to the Township.
6. In the event said operator shall fail during said 30-day period to remove the antenna support structures pursuant to subsection 4 above, it shall be the duty, responsibility and obligation of the owner of the subject lot upon which any or all of such antenna support structures are located, to remove such structures forthwith at no expense to the Township.
7. Nothing set forth herein shall exempt or excuse anyone from compliance with requirements of applicable provisions of the Uniform Construction Code, other codes, all general law, and other Township ordinances.

C. The following revisions are made to the end of Section 604.A:

...tower or structure, except in the case of amateur radio antenna support structures which may be located on a lot in accordance with Section 531 of this Ordinance.

SECTION TWO. In all other respects said Medford Township Land Development Ordinance, as amended and supplemented, shall remain in full force and effect.

SECTION THREE. All other ordinances and parts of ordinances, and resolutions, insofar as they are inconsistent with any of the terms and provisions of this Ordinance, are hereby repealed to the extent of such inconsistency only.

SECTION FOUR. If any section, paragraph, sentence, clause, phrase, term, provision or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, provision of part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION FIVE. This Ordinance shall take effect on the earliest date allowed by law following final passage, adoption and publication, in accordance with the law.