

**GREEN OAK CHARTER TOWNSHIP
ORDINANCE NUMBER 03-2018**

AN ORDINANCE TO AMEND CHAPTER 38, ZONING, TO CHANGE AND/OR ADD DEFINITIONS TO ARTICLE I, IN GENERAL, SEC. 38-1, DEFINITIONS; TO AMEND ARTICLE IV, SUPPLEMENTARY REGULATIONS, SECTION 38-185, EXCEPTIONS TO HEIGHT REGULATIONS, AND SECTION 38-199, WIRELESS COMMUNICATION FACILITIES, TO REGULATE THE USE OF UTILITY POLES, STRUCTURES AND WIRELESS EQUIPMENT IN A PUBLIC RIGHT-OF-WAY.

GREEN OAK CHARTER TOWNSHIP ORDAINS:

Section 1. Amendment of Chapter 38

Chapter 38, Zoning Ordinance, Article I, In General, Sec. 38-1, Definitions, is hereby amended to amend and/or add the following definitions:

Essential services means the erection, construction, alteration or maintenance, by public utilities, municipal governments, departments, commissions or boards, of underground, surface or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including public safety communication towers, structures and facilities, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, police call boxes, towers, poles and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities, municipal governments, departments, commissions or boards for the public health or general welfare, and buildings which are primarily enclosures or shelters of such essential service equipment. An essential service shall not include (i) buildings that are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety or welfare; (ii) utility poles and other structures more than 40 feet in height above ground level in a public right-of-way; and (iii) wireless equipment extending more than five (5) feet above the top of a utility pole or structure it is attached to in a public right-of-way.

Public right-of-way means the surface of, air space above, and area below the entire width of any road, highway, street, alley, thoroughfare, easement, or other area that is dedicated, reserved, used, or open to use as a matter of right, for public travel, whether owned or controlled by, or under the jurisdiction of, the city or county, state, or federal government.

Utility pole means a pole or similar structure that is or may be used in whole or in part for cable, wireline, or wireless communications service, electric distribution, lighting, traffic control, signage, or a similar function.

Wireless equipment means the equipment and components, including cellular antennae, transmitters, receivers, equipment shelters or cabinets, regular and backup power supply including emergency generators, and power supply, coaxial and fiber optic cables used in the provision of wireless services, but excluding wireless support structures.

Section 2. Amendment of Chapter 38

Chapter 38, Zoning Ordinance, Article IV, Supplementary Regulations, Sec. 38-185, Exceptions to Height Regulations, is hereby amended to read as follows:

- (a) The following structural appurtenances shall be permitted to exceed the height limitations for authorized uses in any district:
 - (1) Those that are purely ornamental in purpose, such as church spires, belfries, domes, cupolas, ornamental towers, flagpoles, and monuments.
 - (2) Those that are integral to mechanical or structural functions, such as chimneys, smokestacks, water tanks, elevator and stairway penthouses, ventilators, bulkheads, aerials, antennae, electronic devices, heating and cooling units, and fire towers.
 - (3) Those that are necessary to proper building design, such as cornices and parapet walls, which shall not exceed the height limitations by more than five (5) feet and shall have no window openings.
 - (4) Wind Energy Conversion Systems (WECS) shall be subject to the height limitations as listed in Section 38-200.
- (b) The permitted exceptions set forth in subsection (a) of this section may be authorized only when the following conditions are satisfied:
 - (1) No portion of any building or structure permitted as an exception to a height limitation shall be used for human occupancy or commercial purposes.
 - (2) Any structure permitted as an exception to a height limitation shall be erected no higher than such height as may be necessary to accomplish the purpose for which it is intended to serve.
 - (3) Structures permitted as exceptions to height limitations shall not occupy more than twenty percent (20%) of the gross roof area of any building upon which such structures may be located.
- (c) Utility poles, structures and wireless equipment in a public right-of-way are subject to the following regulations:
 - (1) Utility poles and structures in a public right-of-way shall not be more than 40 feet in height above ground level.
 - (2) Wireless equipment shall not extend more than five (5) feet above the top of a utility pole or structure it is attached to in a public right-of-way.
 - (3) In order to mitigate negative visual impacts, wireless equipment shall utilize stealth design practices.

Section 3. Amendment of Chapter 38

Chapter 38, Zoning Ordinance, Article IV, Supplementary Regulations, Sec. 38-199, Wireless Communication Facilities, is hereby amended to revise Subsection (b)(1) to read as follows:

- (b) Authorization.
 - (1) As a Permitted Use Subject to Site Plan Approval.

In all Zoning Districts, a wireless communication facility described in this subsection (b)(l) shall be a permitted use subject to the standards and conditions set forth in subsection (c), the application requirements in subsection (d), the collocation requirements in subsection (e), the procedures in subsection (g), and any prior special land use or site plan approval conditions.

- a. Wireless communications equipment attached to an existing structure not previously approved and used as a wireless communications support structure and located within a nonresidential zoning district, where there will be no substantial change in physical dimensions of the existing structure.
- b. A proposed collocation upon a wireless communication support structure which has been approved by the Township for such collocation but which is not permitted by administrative review under subsection (b)(3).
- c. Wireless communication equipment on an existing utility pole structure located within a right-of-way and not previously approved and used as a wireless communications support structure, where there will be no substantial change in physical dimensions of the existing pole. Wireless communication facilities in a public right-of-way are subject to Sec. 38-185(c).
- d. Attached wireless communication facilities that are not permitted by administrative review under subsection (b)(3).

Section 4. Repealer.

This ordinance repeals any ordinances in conflict thereof.

Section 5. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance. The Township Board of Trustees hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6. Savings Clause.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7. Publication and Effective Date.

The Township Clerk is hereby ordered and directed to cause this ordinance or a summary of this ordinance to be published in the manner required by law within thirty (30) days after it has been duly adopted by the Township Board. The effective date shall be the date of publication.

Section 8. Adoption.

That this ordinance was duly adopted by the Green Oak Charter Township Board at its regular meeting called and held on September 19, 2018 and was ordered given publication in the manner required by law.

GREEN OAK CHARTER TOWNSHIP

Michael H. Sedlak, Township Clerk

Adoption Date: September 19, 2018

Publication Date: September 20, 2018

Effective Date: September 27, 2018