

WASHINGTON BOROUGH, WARREN COUNTY, NEW JERSEY
LAND USE BOARD
JULY 13, 2020
REGULAR MEETING AGENDA

“TO BE HELD VIRTUALLY VIA ‘ZOOM CLOUD MEETINGS’ PLATFORM

Formal action may be taken at this meeting.

No public hearing will exceed ninety minutes per meeting.

This meeting will be held remotely using a streaming platform available to the public.”

- I. Call to Order 7:30 PM
Sunshine Statement
Flag Salute
Roll Call
- II. Approval of Minutes:
 - A. Regular meeting of June 8, 2020
- III. Resolutions: None
- IV. Applications:
 - A. Hoyer – Variance: Public Hearing
- V. Old Business: None
- VI. New Business:
 - A. Ordinance 2020-09 Mountain Residential Zoning
 - B. Ordinance 2020-10 Cemetery Zoning
- VII. Reports of Officers and Committees:
- VIII. Unagendized Statements: Open to Board Members and Public
- IX. Communications:
- X. Adjournment

**WASHINGTON BOROUGH LAND USE BOARD
MINUTES OF REGULAR MEETING HELD ON
JUNE 8, 2020**

The regular meeting of the Washington Borough Land Use Board was called to order by Chair VanDeursen at 7:30 P.M. via Zoom Cloud Meetings' Platform. Chair VanDeursen read the following statement into the record: "The requirements of the "Open Public Meetings Law", P.L. 1975, Chapter 231, have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of the Borough Hall stating the time, place and purpose of the meeting as required by law." Chair VanDeursen led the Board in the Pledge of Allegiance.

ROLL CALL:

Present:	Aron, Higgins, Turner, Frascella, Fox, VanDeursen
Absent:	Valle, P. Post, C. Post
Also Present:	Steven Gruenberg, Board Attorney Stan Schrek, Board Engineer Elena Gable, Boar Planner

APPROVAL OF MINUTES:

Regular Meeting of March 9, 2020: No comments. Therefore, it was moved by Frascella, seconded by Turner to approve the minutes.

ROLL CALL: Aron, Higgins, Turner, Frascella,
VanDeursen
Ayes: 4; Nays: 0; Abstentions: 1(Aron)
Motion carried.

RESOLUTION: None

APPLICATIONS:

Hoyer – Variance: Completeness hearing –

Attorney Gruenberg stated that the applicant was requesting a C variance. The applicant, Eric Hoyer, represented himself. He is requesting a variance to put a shed in a front yard setback. Stan Schrek stated the that Board could deem the application complete. The public hearing was set for 7/13/2020. Therefore, it was moved by Aron, seconded by Frascella to deem the application complete and set the public hearing for 7/13/2020.

ROLL CALL: Aron, Higgins, Turner, Frascella,
VanDeursen
Ayes: 5; Nays: 0; Abstentions: 0
Motion carried.

Joe Fox joined the meeting via cellphone.

NEW BUSINESS:

A&B Properties – extension of time to perfect deeds:

Alan Lowcher represented the applicant. He is waiting for response to additional documents remitted. Extension requested to 8/31/2020. Therefore, it was moved by Higgins, seconded by Aron to extend the time to perfect the deeds to 8/31/20.

ROLL CALL: Aron, Higgins, Turner, Frascella,
Fox, VanDeursen
Ayes: 6; Nays: 0; Abstentions: 0
Motion carried.

Town Center – extension of time:

Attorney Gruenberg sent a letter dated 6/5/2020 to the applicant's attorney. They have already had 3 extensions and can not request a fourth. The applicant will have to come back before the Board.

OLD BUSINESS: None

REPORTS OF OFFICERS AND COMMITTEES: None

UNAGENDIZED STATEMENTS:

Public portion opened. No public present. Public portion closed.

COMMUNICATIONS:

No discussion.

ADJOURNMENT:

The meeting was adjourned at 8:02 p.m. All in favor.

Respectfully submitted by Patricia L. Titus, Land Use Board Clerk

BOROUGH OF WASHINGTON
ORDINANCE 2020-09
AN ORDINANCE CREATING THE MOUNTAIN RESIDENCE OVERLAY ZONING
DISTRICT

WHEREAS, the Borough of Washington filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, captioned IMO Borough of Washington, Docket No. WRN-L-230-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

WHEREAS, Washington Station Venture, LP and Washington Venture Investment, Ltd. (collectively, the “Washington Venture Entities” are the owners of Block 97, Lots 1, 3, and 4 and Block 97.01, Lot 1, which will be the subject of a subdivision application creating 3 lots: the Open Space Lot, the Residential Lot, and the Cemetery Lot; and

WHEREAS, pursuant to a Consent Order filed on or about November 3, 2015, the Washington Venture Entities are defendant-intervenors in the above-referenced Declaratory Judgment Action; and

WHEREAS, the Borough of Washington (the “Borough”) entered into Settlement Agreements with Fair Share Housing Center on December 10, 2018 and with the Washington Venture Entities on October 9, 2018 (as amended on December 18, 2018) (collectively hereinafter the “Settlement Agreements”) that determine the Borough’s affordable housing obligation and the mechanisms for how the obligation will be addressed; and

WHEREAS, the Settlement Agreements contemplate the sale of one lot consisting of approximately 80 acres to the Borough as dedicated open space (the “Open Space Lot”), the development of approximately 35 acres as a residential development (the “Residential Lot”); the

expansion of the existing cemetery on approximately 10 acres (the “Cemetery Lot”); and the development of a portion of either the Cemetery Lot or a 10,000 square foot independent lot for lease to construct a cell tower; and

WHEREAS, by Resolution dated September 9, 2019, the Borough Land Use Board subdivided the aforementioned parcels of land into the Open Space Lot, which is now designated as Block 97, Lot 1.03, and the Remainder Lot, which is now designated as Block 97, Lot 1.04. The Remainder Lot will subsequently be subdivided into the Residential Lot and the Cemetery Lot, as depicted on the attached Exhibit “A”.

WHEREAS, the zoning amendments herein are intended to implement the development of the Residential Lot as a 50-unit residential development consistent with the Settlement Agreements encompassing an area of approximately 35 acres in the event that public sewer service can be extended to the Residential Lot; and

WHEREAS, the revisions to the zoning map, and creation of the M-3 Mountain Residence Overlay Zoning District, are intended to follow the property lines of the newly created Residential Lot as depicted on **Exhibit A** attached hereto; and

WHEREAS, the Borough shall include the Residential Lot within the Town Center Designation and for purposes of Plan Conformance with the New Jersey Highlands Master Plan; and

WHEREAS, the Borough’s Land Use Board adopted a Housing Element and Fair Share Plan, that comprehensively provides for the creation of affordable housing in the Borough in a manner consistent with all applicable affordable housing statutes and regulations.

NOW THEREFORE BE IT ORDAINED, by the Council of the Borough of Washington, County of Warren, and State of New Jersey, as follows:

Section 1. Section 94-5 of the Code of the Borough of Washington (the “Code”) entitled “Definitions” is amended to add the following definitions:

BASEMENT- A half-story space partly underground but having not more than 1/2 of its floor-to-ceiling height above the average grade as defined in Building Height. A basement shall be counted as a story if its ceiling is four or more feet above the average grade as defined in Building Height.

STORY - That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above, excluding spaces defined as “Half Story.”

STORY, HALF – For an attic space, a habitable space that has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet above the attic floor is not more than one-third the area of the next floor below. A half story shall also include a basement that is accessible from grade. A half story shall be counted as a full story if it does not meet the definition of half story as defined herein. A single-family dwelling may have a habitable attic or a half-story basement, but not both.

Section 2. Section 94-70 of the Code entitled “Enumeration of Districts” is amended and supplemented to add the MO-3 Mountain Overlay Residence District.

Section 3. Section 94-71 entitled “Zoning Map, schedules and performance standards” is amended such that the boundary of the Mountain Overlay Residence District (MO-3) District shall be applied to the parcel of land depicted as the Residential Lot on Exhibit “A,” which is a portion of what is now known as Block 97, Lot 1.04.

Section 4. Section 94-74.1 is hereby added as follows:

§94-74.1 MO-3 Mountain Overlay Residence District.

A. Purpose. The Mountain Overlay Residence District is created to provide for small-lot residential uses connected to public water and sewer to comply with the requirements and terms of Settlement Agreements with Fair Share Housing Center on December 10, 2018 and with the Washington Venture Entities on October 9, 2018 (as amended on December 18, 2018 and on June ____, 2020) (collectively hereinafter the “Settlement Agreements”). The ordinance creates design and bulk standards to ensure that single-family housing in this zone is developed in a manner that is sensitive to the character of the surrounding area and environment.

B. Principal Permitted uses.

(1) Single-family detached dwellings

(3)

C. Accessory Uses

(1) Home offices and instruction for musical instruments on one-to-one basis not entailing more than one student at any one time for one teacher in a residence.

(2) Accessory uses, buildings, and structures customarily incidental to the principal permitted use

D. Maximum Number of Lots. There shall be no more than 50 single-family lots permitted on the Residential Lot.

E. Tract Area. The entire Residential Lot shall be approximately 35 acres, consistent with the Settlement Agreements and all amendments thereto.

F. Common Open Space.

(1) A minimum of 25% of the Residential Lot shall be designated as common open space. Common open space may include stormwater management facilities and other non-buildable areas such as wetlands or stream buffer areas.

(2) Open space not dedicated to the Borough shall be assigned for ownership and maintenance to an organization provided for this purpose by the developer. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization which is conceived and established to own and maintain the open space for the benefit of such development and which thereafter shall not be dissolved or disposed of any of its open space without first offering to dedicate the same to the Borough. The developer shall be responsible for the maintenance of any such open space until such time as the organization established for its ownership and maintenance shall be formed and functioning and shall be required to furnish a performance guaranty for such maintenance for a period of two years after the final certificate of occupancy is issued.

All documents pertaining to any organization established to own and maintain common open space shall be subject to review and approval of the Borough Attorney, who shall require that all portions thereof be recorded as covenants running with the land.

(3) Failure to maintain open space. In the event that the organization shall fail to maintain the open space in reasonable order and condition, the Zoning Officer shall serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization or the owner has failed to maintain the open space in reasonable condition and demanding that such deficiencies be cured within 35 calendar days. This notice shall also state the date and place of a hearing thereon, which shall be held within 15 days of the date of the notice. At such hearing, the board which granted approval of the development may modify the terms of the original notice as to deficiencies and may give an extension of time not to exceed 65 days within which they shall be remedied. If the deficiencies set forth in the original notice or in the modification thereof shall not be remedied within 35 days of the date of the

notice or within the period of any extension granted, the Borough, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners and is accepted by the Borough.

G. Area yard and bulk requirements (principal permitted uses).

Use Type	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Building Height (feet) ¹	Maximum Lot Coverage (percent)	Maximum Building Coverage (principal building)
Detached single-family dwelling	7,000 sq. feet	60	25	10; 20 feet combined or 30% of the lot width, whichever is greater	30 feet if the rear yard is backs up to a residential lot; 25 feet if the rear yard backs up to common open space or publicly preserved open space.	2 ½ stories or 35 feet.	50%	30%

¹ In no event shall the building height exceed 35 feet/2.5 stories along any façade facing a road. Basement garages shall be permitted provided the garage doors are located along the building's side or rear facade. Walkout basements shall be permitted provided it meets the definition of half-story and basement.

.H. Accessory Uses and Structures area yard and bulk requirements

(1) The minimum distance of any accessory building or structure, other than an uncovered deck or patio, constructed of any material attached to a principal building is part of the principal building and shall adhere to the yard setback requirements for the principal building.

(2) The minimum distance of any accessory building or structure, other than an uncovered deck or patio, to a property line or to a building on the same lot shall be five feet.

(3) The minimum distance of an uncovered deck or patio less than 18 inches above grade in height to a property line shall be eight feet.

(4) The minimum distance of any uncovered deck or patio more than 18 inches above grade in height to a property line shall be ten feet.

(5) Height and area. Accessory buildings or structures shall not exceed 15 feet in height and may not occupy an area totaling more than 25% of a required rear yard.

(6) Location. An accessory building or structure may be erected in the side or rear yard only. If erected on a corner lot, it shall be set back from the side street to comply with the setback line applying to the principal building.

.I. Additional Requirements

(1) As part of any subdivision and / or site plan application, an environmental impact report shall be submitted and considered by the Land Use Board in compliance with Code Section 94-46, however, an environmental impact statement shall not be required for the initial Minor Subdivision to create the Open Space Parcel.

Environmental elements relating to soil erosion, preservation of trees, topography, soil and animal life shall be considered, and the design of the plan shall minimize any adverse impact on these elements.

(2) Each exterior face of a single-family dwelling shall include windows and the windows shall not be less than 4% of the building face.

(3) Connections to public water and sanitary sewer are required.

J. If the proposed residential units will be served by individual septic systems, the bulk standards set forth herein shall not apply and the underlying Mountain District (M-3) Zoning without the cluster option shall apply. In no event shall a package treatment plant be permitted.

K. The residential development shall be required to make a financial contribution equal to 1.5% of equalized assessed value to be used for affordable housing pursuant to the Borough's development fee ordinance, set forth at Article IX Development Fees of the Borough Code §94-94 through §94-100.

I. L. Access to the Residential Lot shall only be permitted via Nunn Avenue. Emergency access only can be provided via the adjacent Cemetery Lot pursuant to an access easement, which restriction shall be a condition of any subdivision or site plan approval. In the event the adjacent cemetery does not purchase the Cemetery Lot, and/or the proposed cell tower cannot be accessed through the Cemetery Lot, access to the cell tower may be provided through the Residential Lot, but such access shall not serve the existing or proposed cemetery.

M. Streets and Sidewalks. All roads within the residential development in the MO-3 Zone shall be private and comply with Residential Site Improvement Standards (RSIS), unless waivers have been granted by the Borough Land Use Board.

N. Compliance with Borough Ordinances. All existing Borough ordinances, including but not limited to Chapter 57 Stormwater Management, Chapter 61 Numbering of Buildings, Chapter 73 Soil Removal, Chapter 83 Trees, Chapter 47 Garbage, Rubbish, and Refuse, and Chapter 75 Streets and Sidewalks shall apply. However, Chapter 75, Article VII entitled “Street Construction Standards” does not apply to private roads. Additionally, Chapter 83, entitled “Trees” only applies to trees located within the public right-of-way, a public highway, or public place.

Section 5. Section 94-74 M-3 Mountain District is hereby amended as follows:

§94-74E entitled “Cluster Option” is deleted in its entirety.

§94-74F entitled “Area and yard bulk requirements for cluster option (principal permitted use) is deleted in its entirety.

§94-74G Area and yard bulk requirements (accessory uses) is deleted in its entirety.

§94-74H entitled “Affordable Housing” is deleted in its entirety.

Section 6. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 7. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 8. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Land Use Board of the Borough of Washington for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 9. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Warren County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this section, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 10. This Ordinance shall take effect upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing thereof with the Warren County Planning Board pursuant to N.J.S.A. 40:55D-16.

Section 11. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Introduced: June 16, 2020

Adopted:

**BOROUGH OF WASHINGTON
ORDINANCE 2020-10**

AN ORDINANCE CREATING THE CEMETERY ZONING DISTRICT

WHEREAS, the Borough of Washington filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, captioned IMO Borough of Washington, Docket No. WRN-L-230-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

WHEREAS, Washington Station Venture, LP and Washington Venture Investment, Ltd. (collectively, the “Washington Venture Entities” are the owners of Block 97, Lots 1, 3, and 4 and Block 97.01, Lot 1, which will be the subject of a subdivision application creating 3 lots: the Open Space Lot, the Residential Lot, and the Cemetery Lot;

WHEREAS, pursuant to a Consent Order filed on or about November 3, 2015, the Washington Venture Entities are defendant-intervenors in the above-referenced Declaratory Judgment Action; and

WHEREAS, the Borough of Washington (the “Borough”) entered into Settlement Agreements with Fair Share Housing Center on December 10, 2018 and with the Washington Venture Entities on October 9, 2018 (as amended on December 18, 2018) (collectively hereinafter the “Settlement Agreements”) that determine the Borough’s affordable housing obligation and the mechanisms for how the obligation will be addressed; and

WHEREAS, the Settlement Agreements contemplate the sale of one lot consisting of approximately 80 acres to the Borough as dedicated open space (the “Open Space Lot”), the development of approximately 35 acres as a residential development (the “Residential Lot”); the expansion of the existing cemetery on approximately 10 acres (the “Cemetery Lot”); and the development of a portion of either the Cemetery Lot or a 10,000 square foot independent lot for lease to construct a cell tower; and

WHEREAS, by Resolution dated September 9, 2019, the Borough Land Use Board subdivided the aforementioned parcels of land into the Open Space Lot, which is now designated as Block 97, Lot 1.03, and the Remainder Lot, which is now designated as Block 97, Lot 1.04. The Remainder Lot will subsequently be subdivided into the Residential Lot and the Cemetery Lot, as depicted on the attached Exhibit “A”.

WHEREAS, the zoning amendments herein implement the development of the Cemetery Lot as an expansion of the existing Washington Cemetery in compliance with the Settlement Agreements encompassing an area of not more than 10 acres; and

WHEREAS, the Washington Cemetery has operated within the Borough for many years; however, cemeteries are not a permitted use in any zoning district within the Borough; and

WHEREAS, the revisions to the zoning map, and creation of the Cemetery Zoning District, are intended to follow the property lines of the newly Cemetery Lot as depicted on **Exhibit A**.

NOW THEREFORE BE IT ORDAINED, by the Council of the Borough of Washington, County of Warren, and State of New Jersey, as follows:

Section 1. Section 94-70 of the Code of the Borough of Washington (the “Code”) entitled “Enumeration of Districts” is amended and supplemented to add the Cemetery District.

Section 2. Section 94-71 entitled “Zoning Map, schedules and performance standards” is amended such that the boundary of the Cemetery District shall be applied to the parcel of land depicted as the Cemetery Lot on Exhibit “A,” which is a portion of what is now known as Block 97, Lot 1.04.

Section 3. Section 94-87 is hereby added as follows:

§94-87 C-3 Cemetery District

A. Purpose. The Cemetery District is created to provide for cemetery use of a not more than 10 acre tract of land within the Borough in accordance with the requirements and terms of Settlement Agreements entered into on October 9, 2018 (amended on December 18, 2018 and on June ____, 2020) between the Borough and Washington Station Venture, LP and Washington Venture Investment, Ltd. and a Settlement Agreement entered into on December 10, 2018 with Fair Share Housing Center (collectively, the “Settlement Agreements”). The ordinance creates design and bulk standards to ensure that the cemetery expansion in this zone is developed in a manner that is sensitive to the character of the surrounding area and environment.

B. Principal Permitted uses.

(1) Cemeteries.

(2) Cell towers.

(3)

C. Accessory Uses

- (1) Mausoleums
- (2) Buildings for the sole purpose of cemetery administration and maintenance
- (3) Accessory uses customarily incidental to the above permitted uses

D. Cemeteries shall be licensed by the New Jersey Division of Consumer Affairs.

E. Cemetery Design Standards.

(1) Site plan approval of the cemetery shall be required identifying the locations of the burial site areas and proposed structures.

(3) Drainage shall not create erosion or flooding of adjacent lands and shall conform to stormwater management requirements found in Chapter 57 of the Revised General Ordinances of the Borough of Washington as well as Stormwater Management Regulations set forth by the State of New Jersey.

(4) Lighting. Since the cemetery is only open from dawn until dusk, no lighting shall be permitted.

F. Impervious Coverage (Cemetery Use Only). The maximum impervious coverage associated with access/circulation drives, mausoleums, and maintenance sheds shall not exceed 25%. Grave monuments, markers and headstones shall not be included in the calculation of total impervious cover in determining conformance with this ordinance standard.

G. Perimeter Buffering (Cemetery use only). A minimum perimeter buffer shall be 50 feet except where adjacent to public open space. Existing vegetation within this buffer area shall be preserved and supplemented with evergreen plantings and native plants as needed to effectively screen improvements on the cemetery property.

Conservation easements shall be provided for the buffer areas. There shall be no access

drives permitted within the buffer area, other than to cross the buffer area to provide access to the Cemetery Lot.

H. Area yard and bulk requirements (principal and accessory permitted uses and structures).

(1) Cemeteries.

(a) Maximum Lot Area. 10 acres

(b) Maximum Building Height. 25 feet.

(c) Setback. 50 feet. No principal or accessory structures shall be constructed within a perimeter buffer area.

(2) Cell Towers.

(a) Maximum Lot Area. 10,000 square feet. In the event the cell tower is not located on a separate lot, cell towers shall only occupy up to 10,000 square feet in area, consistent with the Settlement Agreements.

(b) Maximum Height of Tower. If there are two carriers located on the tower, 125 feet. If there are three or more carriers located on the tower, 150 feet, measured from the proposed elevation at the base of the tower including any structures or antennae supported by the tower.

(c) Equipment cabinets and other structures within the compound enclosure that are installed by the various carriers occupying the tower shall not exceed a height of 15 feet. Equipment storage buildings or cabinets shall comply with all building codes applicable to the use.

(d) The tower compound shall be enclosed by security fencing not less than six (6) feet nor more than eight (8) feet in height. Barbed wire fencing is prohibited.

It is recommended the fencing be decorative. Proposed enclosure fencing shall incorporate appropriate anti climbing features unless waived by the Land Use Board as part of the Site Plan review process.

(e) Proposed development plans for tower facilities shall incorporate a 10 -foot wide landscape buffer that provides an effective screen of the compound area from adjacent residential properties. Landscaping shall be installed on the outside of the fence and consist of existing vegetation and shall be enhanced by evergreen plantings. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible to enhance the proposed buffer.

(g) Provisions for co-location for additional antennae or equipment for other wireless providers is required.

I. Access to a separate lot created for cell tower use shall be permitted through the adjacent Residential Lot, only with a showing that access cannot reasonably be provided through the Cemetery Lot. Access to any Property currently or intended to be used as a cemetery shall only be permitted via extension of existing driveways servicing the cemetery and shall not be permitted through the adjacent Residential Lot. In no event shall access to an existing or proposed cemetery be permitted through the Residential Lot. A minimum driveway width of fifteen (15) feet shall be provided for driveways servicing either a cell tower or cemetery use, subject to review and approval by emergency personnel.

J. Cemetery Operation.

(1) The hours of operation of the cemetery shall be limited to dawn until dusk.

(2) If the facility seeks an open burning of any materials within the cemetery it shall apply to the Fire Official for a Type 1 Open Burn Permit in compliance with the New Jersey Uniform Fire Code, N.J.A.C. 5:70-2.7 et seq.

(3) The facility shall be permitted to perform traditional and customary religious practices to the extent permitted by Federal, State, County and local law and regulations.

(4) The following matters, things, conditions or acts, and each of them, are hereby declared to be a nuisance and injurious to the health, safety, or welfare of the inhabitants of the Borough of Washington:

(a) Pollution, or the existence of a condition or conditions which cause or threaten pollution, of any waters within the Borough of Washington in such manner as to cause or threaten injury to any of the inhabitants of the Borough of Washington in their health, safety, or welfare either in their person or property.

(b) The escape into the open air from any stack, vent, chimney or any entrance to the open air, or from any fire into the open air, of such quantities of smoke, soot, fly ash, dust fumes, vapors, mists or gases as to cause injury, detriment or serious annoyance to the inhabitants of the Borough of Washington or endanger their comfort, repose, health, safety or property.

(c) The existence or presence of any water or other liquid in which mosquito larvae breed or exist.

(d) The existence or presence of any accumulation of garbage, refuse, or animal or vegetable matter which may attract flies or to which flies may have access or in which fly larvae or pupae may breed or exist.

(e) Depositing, accumulating or maintaining any matter or thing which serves as food for insects, rodents and other animals and to which they may have access or which serves as or constitutes a breeding place for insects or rodents in or on any land, premises, building or other place.

(f) Any act, matter, thing or condition which is or may become detrimental or a menace to the health of the inhabitants of the Borough of Washington or which is or may become an annoyance or interfere with the comfort or general well-being of the inhabitants of the Borough.

Section 4. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part there of directly involved in the controversy in which such judgment shall have been rendered.

Section 5. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 6. After introduction, the Borough Clerk is hereby directed to submit a copy of the Ordinance to the Land Use Board of the Borough of Washington for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 7. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Warren County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this section, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 8. This Ordinance shall take effect upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing thereof with the Warren County Planning Board pursuant to N.J.S.A. 40:55D-16.

Section 9. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Introduced: June 16, 2020

Adopted: