

EAST COVENTRY TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 206

“AMENDED AND RESTATED WIRELESS COMMUNICATIONS FACILITIES ORDINANCE AND ZONING MAP AMENDMENT”

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF EAST COVENTRY TOWNSHIP, CHAPTER 27 (ZONING), PART 2 (DEFINITIONS), SECTION 202 (DEFINITIONS) TO DELETE CERTAIN DEFINITIONS, TO AMEND CERTAIN DEFINITIONS AND TO ADD CERTAIN DEFINITIONS OF TERMS RELATING TO WIRELESS COMMUNICATIONS FACILITIES; TO FURTHER AMEND CHAPTER 27 (ZONING), PART 3 (ZONING DISTRICTS AND BOUNDARIES), SECTION 301 (ESTABLISHMENT OF DISTRICTS), SUBSECTION 2, PARAGRAPH F AND SECTION 303 (ZONING DISTRICT BOUNDARIES), SUBSECTION 2 (OVERLAY DISTRICT BOUNDARIES), PARAGRAPH C (WIRELESS COMMUNICATIONS FACILITIES OVERLAY DISTRICT BOUNDARIES AND REGULATIONS) TO ELIMINATE THE WIRELESS COMMUNICATIONS FACILITIES OVERLAY DISTRICT AND TO MOVE THE REQUIREMENTS FOR APPROVAL OF WIRELESS COMMUNICATIONS FACILITIES TO NEW PART 20 (WIRELESS COMMUNICATIONS FACILITIES); TO AMEND CHAPTER 27 (ZONING), PART 5 (FR FARM RESIDENTIAL DISTRICT), SECTION 502 (USE REGULATIONS), SUBSECTION 2 (CONDITIONAL USES), TO PERMIT WIRELESS COMMUNICATIONS FACILITY STRUCTURES BY CONDITIONAL USE; TO AMEND CHAPTER 27 (ZONING), PART 9 (NC NEIGHBORHOOD COMMERCIAL DISTRICT AND C COMMERCIAL DISTRICT), SECTION 902 (USE REGULATIONS), SUBSECTION 2 (NC NEIGHBORHOOD COMMERCIAL DISTRICT CONDITIONAL USES), TO PERMIT WIRELESS COMMUNICATIONS FACILITY STRUCTURES BY CONDITIONAL USE; TO AMEND

CHAPTER 27 (ZONING), PART 13 (GENERAL AND SUPPLEMENTAL REGULATIONS AND DESIGN STANDARDS), SECTION 1303 (EXEMPTIONS TO HEIGHT RESTRICTIONS) TO MAKE ALL WIRELESS COMMUNICATIONS FACILITIES SUBJECT TO THE HEIGHT RESTRICTIONS IN NEW PART 20; TO AMEND AND RESTATE AND RELOCATE THE REGULATIONS PERTAINING TO WIRELESS COMMUNICATIONS FACILITIES TO PART 20 (WIRELESS COMMUNICATIONS FACILITIES) IN THEIR ENTIRETY TO CONTAIN THE FOLLOWING SECTIONS: PURPOSE; APPLICABILITY; GENERAL REQUIREMENTS FOR ALL WCF STRUCTURES AND ALL WIRELESS COMMUNICATIONS FACILITIES; REQUIREMENTS FOR TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES LOCATED OUTSIDE THE RIGHT-OF-WAY; TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES LOCATED IN THE RIGHT-OF-WAY; REQUIREMENTS FOR ALL NON-TOWER WIRELESS COMMUNICATIONS FACILITIES; NON-TOWER WIRELESS COMMUNICATIONS FACILITIES LOCATED OUTSIDE THE RIGHT-OF-WAY; NON-TOWER WIRELESS COMMUNICATIONS FACILITIES LOCATED IN THE RIGHT-OF-WAY; VIOLATIONS AND PENALTIES; AND TO AMEND THE ZONING MAP OF EAST COVENTRY TOWNSHIP TO ELIMINATE THE WIRELESS COMMUNICATIONS FACILITIES OVERLAY DISTRICT.

The Board of Supervisors of East Coventry Township does hereby **ENACT** and **ORDAIN** as follows:

SECTION 1. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions), is hereby amended to delete the following terms and

definitions: “Antenna Array”, “Attached Wireless Communications Facility”, “Attachment Structure”, “Equipment Facility”, “Microfacility”, “Replacement Attachment Structure”, “Stealth”, “Support Structure”, and “Wireless Communications Facility”.

SECTION 2. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions), the definition of “Applicant” is hereby amended to delete the second sentence of said definition and to add the following in its place:

When pertaining to a Wireless Communications Facility, an applicant is any person that applies for a WCF Structure or Wireless Communication Facility building permit, zoning approval, and/or conditional use approval.

SECTION 3. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions), the definition of “Height” is hereby amended to delete the last sentence of said definition and to add the following at the end of such definition: “See, ‘Height of a Tower-Based WCF’.”

SECTION 4. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions), the definition of “Person” is hereby amended to delete the “.” at the end of said definition and to add the following in its place: “; provided that Person does not include, or apply to, the Township or to any department or agency of the Township.”

SECTION 5. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions), the definition of “Tower” is hereby amended to delete the phrase “, including wireless communications” at the end of said definition and to add the

following new sentence at the end of said definition: “For wireless communications, see ‘Wireless Tower’.”

SECTION 6. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions), is hereby amended to add the following new terms and definitions:

ANTENNA – any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An Antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. The antenna does not include the Wireless Support, as defined in this Section.

CO-LOCATION – the installation of one or more Wireless Communications Facilities, including Antennae, on a previously approved and constructed WCF Structure. The term includes the placement, replacement or modification of previously approved accessory equipment.

DISTRIBUTED ANTENNA SYSTEMS (DAS) – a network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

EMERGENCY – a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Right-of-Way to be unusable and result in loss of the services provided.

HEIGHT OF A TOWER-BASED WCF – the vertical distance measured from the finished grade of the ground (immediately adjacent to the Tower-Based WCF), including any base pad, to the highest point on the Tower-Based WCF, including antennae mounted on the tower and any other appurtenances.

MODIFICATION – when pertaining to a Wireless Communications Facility, the improvement, upgrade, expansion or replacement of existing Wireless Communications Facilities or accessory equipment on an existing WCF Structure if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the WCF Structure.

MONOPOLE – a WCF Structure that consists of a single pole, designed and erected on the ground or on top of a structure, to support communications Antennae and connecting appurtenances.

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF) - any Wireless Communications Facility not included within the definition of Tower-Based WCF. This term includes wireless supports and any wireless communications facilities connected thereto.

RELATED EQUIPMENT – any piece of equipment related to, incident to or necessary for the operation of a WCF Structure. By way of illustration, not limitation, “Related Equipment” includes generators and base stations.

RIGHT-OF-WAY (ROW) – when pertaining to a Wireless Communications Facility, the surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than streets that are owned by the Township and also excluding pedestrian trails, footpaths and equestrian trails under the control of the Township. The phrase “in the Right-of-Way” means in, on, over, along, above and/or under the Right-of-Way. Right-of-way (ROW) shall include streets and roads owned by the Commonwealth of Pennsylvania, and any other Pennsylvania state agencies.

STEALTH TECHNOLOGY – camouflaging methods applied to wireless communications towers, Antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennae, building-mounted Antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, silos and light poles.

SUBSTANTIAL CHANGE – means (1) any increase in the height of a WCF Structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna by more than twenty (20) feet, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennae; or (2) any further increase in the height of a WCF Structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF) – any wireless tower and any Wireless Communications Facilities connected thereto.

WBCA – Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.), as amended.

WIRELESS – transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

WIRELESS COMMUNICATIONS FACILITY (WCF) – the set of equipment and network components, including Antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment, used for the purpose of transmitting, receiving, distributing, or providing wireless communications services. The term does not include the Wireless Communications Facility Structure.

WIRELESS COMMUNICATIONS FACILITY STRUCTURE (WCF STRUCTURE) – any structure, regardless of its primary purpose, that supports the placement or installation of a Wireless Communications Facility and the Wireless Communications Facilities attached thereto. This term is comprised of both Tower-Based WCFs and Non-Tower WCFs.

WIRELESS SUPPORT – any support structure that supports Wireless Communications Facilities, regardless of its primary purpose, including but not limited to Wireless Towers, buildings, water towers, utility poles, flag poles and light poles. This term does not include the Wireless Communications Facility attached thereto.

WIRELESS TOWER – any Wireless Support that has a primary purpose of supporting Wireless Communications Facilities, including but not limited to, self-supporting lattice towers, guy towers and monopoles. This term does not include the Wireless Communications Facility attached thereto.

SECTION 7. – Amendment to Code.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 3 (Zoning Districts and Boundaries), Section 301 (Establishment of Districts), Subsection 2, is hereby amended to delete Paragraph F in its entirety.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 3 (Zoning Districts and Boundaries), Section 303 (Zoning District Boundaries), Subsection 2 (Overlay District Boundaries), Paragraph C (Wireless Communications Facilities Overlay District Boundaries and Regulations), is hereby amended to delete such paragraph in its entirety.

SECTION 8. – Amendment to Code.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 5 (FR Farm Residential District), Section 502 (Use Regulations), Subsection 2 (Conditional Uses), is hereby amended to delete such subsection in its entirety and to add a new Subsection 2, as follows:

2. Conditional Uses. A building or other structure may be erected or used and a lot may be used or occupied when authorized as a conditional use for any of the following purposes:
 - A. Wireless Communications Facility Structures, subject to the standards and criteria for Wireless Communications Facilities set forth in Part 20 of this Chapter.

SECTION 9. – Amendment to Code.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 9 (NC Neighborhood Commercial District and C Commercial District), Section 902 (Use Regulations), Subsection 2 (NC Neighborhood Commercial District Conditional Uses), is hereby amended to delete Paragraphs A and B in their entirety and to add a new Paragraph A, as follows:

- A. Wireless Communications Facility Structures, subject to the standards and criteria for Wireless Communications Facilities set forth in Part 20 of this Chapter.

SECTION 10. – Amendment to Code.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 13 (General and Supplemental Regulations and Design Standards), Section 1303 (Exemptions to Height Restrictions), is hereby amended to delete the last sentence of such section and to add the following in its place: “All wireless communications facilities shall be subject to the height restrictions contained in Part 20 of this Chapter.”

SECTION 11. – Amendment to Code.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 13 (General and Supplemental Regulations and Design Standards), Section 1320 (Antennas Accessory to Dwellings – General Regulations), is hereby amended to add a new Subparagraph I, as follows:

- I. The provisions of this §1320 shall not apply to Antennae pertaining to Wireless Communications Facilities, which are governed by the standards and criteria set forth in Part 20 of this Chapter.

SECTION 12. – Amendment to Code.

The Code of Ordinances of the Township of East Coventry, Chapter 27 (Zoning), Part 14 (Conditional Use Process), Section 1405 (Standards for Communications Towers and Communications Antennas Permitted as Conditional Uses) is hereby amended to delete the title of such section in its entirety and re-number subsequent sections to add a new Part 20 entitled “Wireless Communications Facilities”, as follows:

Part 20

Wireless Communications Facilities.

Section 2001. Purpose.

A. The purpose of this Part 20 is to establish uniform standards for the siting, design, permitting, maintenance, and use of WCFs and WCF Structures in the Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.

B. This Part 20 is intended to:

- (1) Promote the health, safety, and welfare of Township residents and businesses with respect to WCFs and WCF Structures.

(2) Provide for the managed development of WCFs and WCF Structures in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in a safe, effective and efficient manner and in accordance with federal and state laws and regulations;

(3) Establish procedures for the design, siting, construction, installation, maintenance and removal of both Tower-Based and Non-Tower WCFs in the Township;

(4) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, wi-fi and other Wireless Communications Facilities;

(5) Encourage the co-location of Wireless Communications Facilities on existing structures rather than the construction of new Tower-Based structures;

(6) Protect Township residents from potential adverse impacts of Wireless Communications Facilities and preserve, to the extent permitted under applicable law, the visual character of established communities and the natural beauty of the landscape; and

(7) Update the Township's wireless communications facility regulations to incorporate changes in federal and state laws and regulations.

Section 2002. Applicability.

A. New Wireless Communications Facility Structures. All new WCF Structures and WCFs in the Township, not in existence on the effective date of this Ordinance, shall be subject to these regulations, except as provided in Subsections B and C below.

B. Pre-Existing Approved WCF Structures and WCFs. Except with regard to additions or substantial modifications, WCF Structures and WCFs in existence prior to the effective date of this Part, if previously approved by the Township, shall not be required to meet the requirements of this Part other than the requirements of Subsections 2003(C), (E), (P), (Q) and (R) below. Existing WCF Structures and WCFs not previously approved by the Township shall be fully subject to all of the requirements of this Part.

C. Amateur Radio Station Operators or Receive Only Antennas. This Part 20 shall not govern any support structure, or the installation of any antenna array, that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

Section 2003. General Requirements for All WCF Structures and Wireless Communications Facilities. The following regulations shall apply to all WCF Structures, Related Equipment and Wireless Communications Facilities:

A. Standard of Care.

(1) All WCF Structures and WCFs shall meet or exceed current standards or regulations of the FAA, the FCC and standards and regulations of any other agencies and/or laws of the Commonwealth of Pennsylvania or Federal government having authority to regulate WCF Structures and WCFs. All WCF Structures and WCFs shall be designed, constructed, installed, erected, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors, as applicable. All WCF Structures and WCFs shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

(2) If applicable governmental standards or regulations are changed, then the owner shall bring the WCF Structure and WCFs into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring a WCF Structure or WCF into compliance with such revised standards and regulations shall constitute a violation of this Part and shall constitute grounds for the removal of the WCF Structure and/or WCF at the owner's expense.

(3) If, upon inspection, the Township concludes that a WCF Structure or WCF fails to comply with any applicable code(s) or standard(s) and constitutes a danger to persons or property, then, except as provided in Paragraph (2) above, the owner shall have thirty (30) days following written notice to bring such WCF Structure and/or WCF into compliance. Failure to bring such WCF Structure and/or WCF into compliance within said thirty (30)-day period shall constitute grounds for the Township to require the removal of the WCF Structure and associated Wireless Communications Facilities at the owner's expense.

B. Maintenance. The following maintenance requirements shall apply:

(1) All WCF Structures and WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

(2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents and businesses.

(3) All modifications and utilized materials shall be nothing less than the best available technology for preventing failures and accidents.

(4) All maintenance shall be ordered and repaired by qualified maintenance and construction personnel.

(5) Any graffiti on a WCF Structure, any Related Equipment or any Wireless Communications Facilities shall be removed at the sole expense of the owner within ten (10) business days of written notice of the existence of the graffiti.

C. Application Required. Each Applicant proposing the construction of any new WCF Structure or the modification or co-location of any existing Wireless Communications Facilities shall complete and submit an application to the Township prior to beginning construction. Such application shall include, in addition to other information, the following:

(1) All fees required by the Township's fee schedule.

(2) A description and plan showing the proposed construction and/or changes to the WCF Structure in detail.

(3) A landscaping plan that satisfies the requirements of this Part including, but not limited to, preserving existing vegetation to the greatest extent possible and screening the base of the WCF Structure and Related Equipment.

(4) A copy of all Zoning Hearing Board and Conditional Use Decisions pertaining to the property upon which the WCF Structure is or will be located.

D. Conditional Use Approval; Permit Required – New WCF Structure. The construction or installation of a new WCF Structure shall be permitted only by conditional use. Conditional uses shall be permitted only when authorized by the Board of Supervisors after public notice and a hearing, in compliance with the standards and criteria set forth in this Part 20, as well as the general standards for conditional uses set forth in Part 14 of this Chapter. When granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this Part, as it may deem necessary to implement the purposes of this Part 20. Such conditions and safeguards may include, but need not be limited to, conditions on height, stealth design, fencing, location and other measures that implement the purposes of this Part. Following conditional use approval, the Applicant shall obtain zoning and building permits from the Township certifying compliance with this Part 20 and all other applicable ordinances of the Township. New construction shall be prohibited without conditional use approval and all applicable permits.

E. Permit Required – Modification or Co-location of Wireless Communications Facilities on an Existing WCF Structure. Any Applicant proposing the modification or co-location of Wireless Communications Facilities on an existing WCF Structure previously approved by the Township shall first obtain zoning and building permits from the Township

certifying compliance with the applicable ordinances of the Township, subject to the WBCA. Modifications and co-location shall be prohibited without the issuance of all applicable permits.

F. Engineer Signature. All plans and drawings for the installation, modification or co-location of a new or existing WCF Structure, Related Equipment or Wireless Communications Facilities shall contain the seal and signature of a professional structural engineer licensed in the Commonwealth of Pennsylvania.

G. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the construction of a new WCF Structure or the modification of an existing WCF Structure and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Part. The Applicant and/or owner of the new or modified WCF Structure shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.

H. Public Safety Communications. No WCF Structure or Wireless Communications Facilities shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

I. Radio Frequency Emissions. No WCF Structure may, by itself or in conjunction with other Wireless Communications Facilities or WCF Structures, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

J. Aviation Safety. All WCF Structures shall comply with all federal and state laws and regulations concerning aviation safety.

K. Related Equipment. Ground-mounted Related Equipment, such as cabinets, shall be located within a structure or fenced enclosure. Shelters for Related Equipment shall be constructed at ground level, not to exceed two hundred (200) square feet of gross floor area and eight (8) feet in height. Each co-locating carrier on an existing WCF Structure may construct a shelter, provided the structure or enclosure complies with all setback and other dimensional requirements of the underlying zoning district.

L. Historic Buildings or Districts. No new WCF Structure or Wireless Communications Facilities may be located on a building or structure that is:

(1) Listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed.

(2) Included in the Historic Resources Inventory or on the Historic Resources Map maintained by the Historical Commission or the Township.

(3) Located within the boundaries of any certified historic district in the Township.

M. Wind. All WCF Structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/EIA-222-E Code, as amended).

N. Lighting. No WCF Structure shall be artificially lighted, except as required by the FAA or other applicable governmental authority. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

O. Noise. All WCF Structures and Wireless Communications Facilities shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Code of Ordinances of East Coventry Township, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

P. Indemnification. Each Person that owns or operates a WCF Structure, Related Equipment, and/or Wireless Communications Facilities shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of a WCF Structure, Related Equipment or any associated Wireless Communications Facilities. Each Person that owns or operates a WCF Structure, Related Equipment or any associated Wireless Communications Facilities shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF Structure, Related Equipment or any associated Wireless Communications Facilities. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

Q. Removal. In the event that the use of a WCF Structure is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Notwithstanding the foregoing, the

Township may deem a WCF Structure to be abandoned or unused after reasonable investigation. Unused or abandoned WCF Structures or portions of WCF Structures shall be removed as follows:

(1) All unused or abandoned WCF Structures, associated WCFs, including Antennae, and/or Related Equipment shall be removed by the owner within sixty (60) days of the cessation of operations at the site unless a time extension is approved by the Township.

(2) If the WCF Structure, Related Equipment and associated WCFs are not removed within sixty (60) days of the cessation of operations at the site, or within any longer period approved by the Township, the WCF Structure, Related Equipment and associated WCFs may be removed by the Township and the cost of removal assessed against the financial security and/or owner of the WCF Structure.

(3) The Township must approve all replacements of portions of a Tower-Based WCF previously removed, subject to the WBCA.

R. Financial Security. Prior to issuance of any permit for the construction or placement of a WCF Structure, the applicant shall provide to the Township financial security in an amount determined by the Township to be sufficient to guarantee the removal of the WCF Structure. Said financial security shall remain in place until the WCF Structure is removed. For each Tower-Based WCF, the owner shall obtain and maintain a bond or other form of financial security acceptable to the Township Solicitor, in the amount of One Hundred Thousand Dollars (\$100,000) to assure the faithful performance of the terms and conditions of this Part. For a Non-Tower WCF, the owner shall obtain and maintain a bond or other form of financial security in an amount acceptable to the Board of Supervisors to assure the faithful performance of the terms and conditions of this Part. The financial security shall be provided by the owner at its own cost and expense, shall be obtained from a surety licensed to do business in Pennsylvania and shall be maintained throughout the existence of the WCF Structure. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Part, after reasonable notice and opportunity to cure. If the removal of the WCF Structure is performed by the Township in accordance with other provisions of the Township Code of Ordinances, the Township shall have the right to recover any and all reimbursement of the expenses of removal from/against the bond. The owner shall file a copy of the bond with the Township prior to the issuance of the building permit. The Township's remedies shall be cumulative, and in the event that the Township exercises its rights to recovery against the bond, the Township shall retain its right to recover any and all outstanding costs as permitted by the Pennsylvania Municipalities Planning Code and applicable law, such as an action in equity.

S. Lot Size. For purposes of determining whether the installation of a WCF Structure and Related Equipment complies with zoning district development regulations,

including but not limited to, setback requirements, lot coverage requirements and other such applicable dimensional criteria, the dimensions of the entire lot shall control, even though the WCF Structure and Related Equipment may be located on a leased parcel within such lot.

T. Franchises. Each owner or operator of a WCF Structure or WCFs shall certify that all franchises (if any) required by law for the construction and/or operation of a WCF Structure or WCFs in the Township have been obtained and shall file a copy of all required franchises with the Township Zoning Officer.

U. Measurement. For purposes of measurement of WCF Structures, setbacks and separation distances shall be calculated and applied to facilities located in the Township irrespective of municipal and county jurisdictional boundaries.

V. Stealth Technology. All WCF Structures, Related Equipment and WCFs shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. In addition, all utility buildings, cabinets and shelters for Related Equipment shall be architecturally designed to blend into the surrounding environment to the satisfaction of the Township. The Stealth Technology chosen by the Applicant and its application shall be subject to the approval of the Township. The Township encourages the use of silos and other structures compatible with a rural farming community.

W. FCC License. Each Person that owns or operates a Tower-Based WCF in the Township shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.

X. Insurance. Each Person that owns or operates a Tower-Based WCF in the Township shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage covering the Tower-Based WCF and Related Equipment in the minimum amount of \$2,000,000 per occurrence. Each Person that owns or operates a Non-Tower WCF in the Township shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage covering the Non-Tower WCF and Related Equipment in the minimum amount of \$1,000,000 per occurrence.

Y. Inspection. The Township reserves the right to inspect any Tower-Based WCF, Related Equipment or Wireless Communications Facilities to ensure compliance with the provisions of this Part and any other provisions in the Township Code of Ordinances or state or federal law. The Township, its agents, consultants, contractors, and employees, shall have the authority to enter the real property upon which any Tower-Based WCF, Related Equipment and/or Wireless Communications Facilities are located at any time, upon reasonable notice to the operator, to ensure such compliance.

Section 2004. Requirements for Tower-Based Wireless Communications Facilities Located Outside the Right-of-Way. The requirements set forth below shall apply to all Tower-Based Wireless Communications Facilities located outside the Right-of-Way.

A. Application Required. An application for the construction of a Tower-Based WCF outside the Right-of-Way shall be treated as an application for a conditional use and shall be evaluated by the Township Board of Supervisors.

B. Notice. Upon submission of a Conditional Use application for a Tower-Based WCF outside the Right-of-Way, the Applicant shall provide a list of addresses of all owners of every property within five hundred (500) feet of the proposed facility.

C. Gap in Coverage; Co-Location Not Available.

(1) An Applicant for a Tower-Based WCF outside the Right-of-Way must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF Structure being proposed is the least intrusive means by which to fill that gap in wireless coverage, subject to the WBCA. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of a Tower-Based WCF.

(2) An application for a new Tower-Based WCF outside the Right-of-Way shall not be approved unless the Township finds that the Wireless Communications Facilities and accessory equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved WCF Structure or building. Any application for approval of a Tower-Based WCF outside the Right-of-Way shall include a comprehensive inventory of all existing WCF Structures, Wireless Towers and other suitable structures within a five-mile radius from the point of the proposed tower, including specific information about the location, height and design of each structure, unless the Applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing Wireless Tower or other suitable structure cannot be utilized. The Township may share such information with other applicants applying for approval or permits under this Part or other organizations seeking to locate wireless communications facilities within the Township; provided, however, that the Township is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for such use.

D. Land Development Approval. The construction or installation of new Tower-Based WCFs outside the Right-of-Way shall require land development approval or a waiver of same from the Township Board of Supervisors. The application for land development approval shall comply with the standards and criteria set forth in this Part and in the Subdivision and Land Development Ordinance [Chapter 22].

E. Development Regulations.

(1) Site Requirements. In addition to the other conditions listed in this Section, a Tower-Based WCF outside the Right-of-Way must comply with all ordinances, regulations and requirements governing the zoning district in which the Tower-Based WCF is located.

(2) Combined with Another Use. A Tower-Based WCF outside the Right-of-Way may be permitted on an improved property with an existing use, or on an unimproved property in combination with another use such as farming, or a property with no principal use. The existing use on the property shall be any permitted use in the underlying zoning district, and need not be affiliated with the Tower-Based WCF or the Wireless Communications Facilities.

(3) Minimum Lot Area. A minimum lot area of three (3) acres shall be required for any Tower-Based WCF. Additionally, all proposals shall comply with the dimensional requirements for the underlying zoning district and shall be the area needed to accommodate the Tower-Based WCF, the Related Equipment, and any required building, shelter, security fence and/or buffer plantings.

(4) Minimum Setbacks. The Tower-Based WCF, the Related Equipment and any accompanying utility building, cabinet or shelter shall comply with the minimum setback requirements of the underlying zoning district or the setback shall be equivalent to the maximum height of the proposed Wireless Tower, whichever setback is greater. All Tower-Based WCFs and Related Equipment located on an improved lot shall be located in the rear yard unless the lot is greater than ten (10) acres. In such case, the Wireless Tower and Related Equipment may be located anywhere on the lot so long as it complies with the minimum setback requirements for the underlying zoning district or the setback shall be equivalent to the maximum height of the proposed tower, whichever setback is greater. In the case of an unimproved lot, the minimum setback of the underlying zoning district to be applied shall be the front yard setback.

(5) Height Restrictions.

(a) All Tower-Based WCFs outside the Right-of-Way shall be designed at no more than the minimum functional height. All Applicants for Tower-Based WCFs outside the Right-of-Way must submit documentation to the Township justifying the total height of the structure. The maximum total height of any Tower-Based WCF outside the Right-of-Way shall not exceed one hundred forty (140) feet above ground level, which height shall include all subsequent additions or alterations. The height of the Antennae or other Wireless Communications Facilities shall not exceed the height of the WCF Structure by more than ten (10) feet. Unless housed within the Tower-Based WCF, Related Equipment, including base stations and cabinets, shall not exceed eight (8) feet in height.

(b) All height extensions to an existing Tower-Based WCF outside the Right-of-Way shall require prior approval of the Township, subject to the WBCA. A height extension shall not increase the overall height of the Tower-Based WCF to more than the greater of ten percent (10%) of the pre-extension height of the WCF Structure or the height of one additional antenna array, and shall be subject to the height limitations in Subparagraph (a) above. A WCF Structure that has already been extended by ten percent (10%) or more of its originally approved height or by the height of one additional antenna array shall not be further extended.

(c) The Township reserves the right to deny extension requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township and the immediately surrounding area.

(6) Any underground vault related to Tower-Based WCFs shall be reviewed and approved by the Township.

(7) The Applicant shall submit a soil report to the Township Engineer complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

F. Appearance Criteria; Visual or Land Use Impact.

(1) The design and appearance of all Tower-Based WCFs and Related Equipment outside the Right-of-Way, including, without limitation, the structures, materials, colors, textures, screening and landscaping utilized, shall employ Stealth Technology satisfactory to and pre-approved by the Township so as to reduce visual obtrusiveness, blend the WCF Structure and Related Equipment into the surrounding environment and minimize the aesthetic impact. Where appropriate, the WCF Structure and Related Equipment shall be housed within a silo or similar structure typically located within a farming community, subject to any applicable requirements of the FAA.

(2) An eight (8) foot high security fence shall completely surround any Tower-Based WCF outside the Right-of-Way, as well as guy wires and any building or shelter housing Related Equipment.

(3) A screen of evergreen trees or an evergreen hedge, with an ultimate height of no less than eight (8) feet and a planted height of at least sixty (60) inches, shall be planted eight (8) feet on center and staggered in two (2) rows along the perimeter of the security fence surrounding a Tower-Based WCF outside the Right-of-Way. The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Tower-Based WCF shall be preserved to the maximum extent possible. Fence gates shall remain accessible.

(4) The Township reserves the right to deny an application for the construction or placement of any Tower-Based WCF outside the Right-of-Way based upon adverse visual and/or land use impact, subject to the WBCA.

G. Additional Antennae. All proposed Tower-Based WCFs outside the Right-of-Way shall be designed structurally, electrically, and in all other respects to accommodate both the Applicant's Antennae and comparable Antennae for future users. As a condition of approval for all Tower-Based WCFs outside the Right-of-Way, the Applicant shall provide the Township with a written commitment that it will allow a minimum of three (3) other service providers to co-locate Antennae on its Tower-Based WCF where technically and economically feasible. No Person shall cause any additional Antennae to be installed without first obtaining the written approval of the Township, subject to the WBCA.

H. Signs. All Tower-Based WCFs outside the Right-of-Way shall have a sign posted on the exterior gate or door to the structure sheltering the Related Equipment which is readily visible to any person outside the equipment structure or compound identifying the name and phone number of a party to contact in the event of an emergency. The face of such sign shall be no larger than six (6) square feet and the top of such sign shall not exceed the height of the gate or door.

I. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to a Tower-Based WCF outside the Right-of-Way. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. The owner of the Tower-Based WCF shall present documentation satisfactory to the Township Solicitor that the landowner has granted a lease or easement on the owner's land for the proposed facility.

J. Parking. There shall be two (2) off-street parking spaces for the first carrier and one (1) additional parking space for each additional carrier up to a maximum of four (4) parking spaces per Wireless Tower.

K. Related Equipment. Ground-mounted Related Equipment connected to or associated with a Tower-Based WCF outside the Right-of-Way shall be underground or screened from public view using Stealth Technology, landscaping and other decorative features to the satisfaction of the Township, as described in this Part 20.

Section 2005. Tower-Based Wireless Communications Facilities Located in the Right-of-Way. The following regulations shall apply to Tower-Based Wireless Communications Facilities located in the Right-of-Way:

A. Application Required. An application for the construction of a Tower-Based WCF in the Right-of-Way shall be treated as an application for a conditional use and shall be evaluated by the Board of Supervisors.

B. Notice. Upon submission of a Conditional Use application for a Tower-Based WCF in the Right-of-Way, the Applicant shall provide a list of addresses of all owners of every property within five hundred (500) feet of the proposed facility or facilities.

C. Gap in Coverage; Co-Location Not Available.

(1) An Applicant for a Tower-Based WCF in the Right-of-Way must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF Structure being proposed is the least intrusive means by which to fill that gap in wireless coverage, subject to the WBCA. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of a Tower-Based WCF.

(2) An application for a new Tower-Based WCF in the Right-of-Way shall not be approved unless the Township finds that the proposed Wireless Communications Facilities and accessory equipment cannot be accommodated on an existing or approved WCF Structure, such as a utility pole or traffic light pole, or an existing building. Any application for approval of a Tower-Based WCF in the Right-of-Way shall include a comprehensive inventory of all existing WCF Structures, Wireless Towers and other suitable structures within a one-mile radius from the point of the proposed tower, including specific information about the location, height and design of each structure, unless the Applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing Wireless Tower or other suitable structure cannot be utilized. The Township may share such information with other applicants applying for approval or permits under this Part or other organizations seeking to locate wireless communications facilities within the Township; provided, however, that the Township is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for such use.

D. Land Development Approval. The construction or installation of new Tower-Based WCFs in the Right-of-Way shall require land development approval or a waiver of same from the Township Board of Supervisors. The application for land development approval shall comply with the standards and criteria set forth in this Part and in the Subdivision and Land Development Ordinance [Chapter 22].

E. Development Regulations:

(1) Prohibited in Underground Utility Areas. Tower-Based WCFs shall only be permitted along roadways, streets, and other rights-of-way where utilities are above ground, regardless of the underlying zoning district.

(2) Height Restrictions.

(a) Tower-Based WCFs in the ROW shall not exceed forty-five (45) feet in height.

(b) All height extensions to an existing Tower-Based WCF in the Right-of-Way shall require prior approval of the Township, subject to the WBCA. A height extension shall not increase the overall height of the Tower-Based WCF to more than the greater of ten percent (10%) of the pre-extension height of the WCF Structure or the height of one additional antenna array and shall be subject to the height limitations in Subparagraph (a) above. A WCF Structure that has already been extended by ten percent (10%) or more of its originally approved height or by the height of one additional antenna array shall not be further extended.

(c) The Township reserves the right to deny extension requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.

(3) Co-Location. All proposed Tower-Based WCFs in the Right-of-Way shall be designed structurally, electrically, and in all respects to accommodate both the Applicant's Antennae and comparable Antennae for future users.

F. A Tower-Based WCF located in the Right-of-Way shall be located at, or as close as practicable to, the point where a side property line intersects with a street right-of-way line.

G. Time, Place and Manner Restrictions. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

H. Related Equipment. Related Equipment connected to or associated with Tower-Based WCFs located in the Right-of-Way shall be installed underground if located in the Right-of-Way so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township. Any underground vault related to Tower-Based WCFs and/or Related Equipment shall be reviewed and approved by the Township.

I. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a Tower-Based WCF in

the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF Structure when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- (1) The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
- (2) The operations of the Township or other governmental entity in the Right-of-Way;
- (3) Vacation of a street or road or the release of a utility easement; or
- (4) An Emergency as determined by the Township.

J. Reimbursement for ROW Use. In addition to permit fees as described in this Part, every Tower-Based WCF located in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW and all costs incurred by the Township as a result of such activities. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The annual ROW management fee for Tower-Based WCFs shall be determined by the Township and authorized by resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such Tower-Based WCF.

Section 2006. Requirements for All Non-Tower Wireless Communications Facilities. All new Non-Tower WCFs shall be permitted upon approval and issuance of zoning and building permits by the Township, subject to the applicable regulations set forth in this Part and the restrictions and conditions prescribed below.

A. Prohibited on Certain Structures. Non-Tower WCFs shall not be located on single-family residences or any accessory residential structure.

B. Substantial Changes. All Substantial Changes to a Wireless Communications Facility shall require a prior amendment to the original permit or authorization issued by the Township.

Section 2007. Non-Tower Wireless Communications Facilities Located Outside the Right-of-Way. The following additional regulations shall apply to all Non-Tower Wireless Communications Facilities located outside the Right-of-Way.

A. Development Regulations.

(1) The total height of the Wireless Support for WCFs shall not exceed the maximum height permitted in the underlying zoning district.

(2) The total height of any Wireless Support, including the mounted WCF, shall not exceed the maximum height permitted in the underlying zoning district or forty-five (45) feet, whichever is greater.

(3) Antennae and accessory equipment that are mounted to a building or similar structure may not exceed a height of ten (10) feet above the roof or parapet, whichever is higher, unless the Applicant first obtains a special exception.

(4) If the Applicant proposes to locate Related Equipment in a separate building, the building shall comply with the minimum setback and other dimensional requirements for the underlying zoning district.

(5) An eight (8) foot high security fence and landscape screening satisfying the requirements of this Part shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(6) Any underground vault related to Non-Tower WCFs shall be reviewed and approved by the Township.

B. Design Regulations.

(1) Non-Tower WCFs, including Antennae and all Related Equipment, shall be designed using Stealth Technology to visibly match the Wireless Support in order to blend into the surrounding environment and minimize aesthetic impact. Non-Tower WCFs and Related Equipment shall be painted, or otherwise coated, to be visually compatible with the Wireless Support upon which they are mounted. The Stealth Technology chosen by the Applicant and its application shall be subject to the approval of the Township.

(2) The Applicants for a Non-Tower WCF located outside the Right-of-Way must submit documentation to the Township justifying the total height of the Non-Tower structure, subject to the WBCA. Such documentation shall be analyzed in the context of such justification on an individual case by case basis.

(3) Antennae, and their respective accompanying Wireless Supports, shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.

(4) Non-Commercial Usage Exemption. Township citizens utilizing satellite dishes and antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the Design Regulations enumerated in this Section 2001.7.B.

C. Removal and Replacement. The removal and replacement of Non-Tower WCFs and Related Equipment for the purpose of upgrading or repairing the WCF Structure is permitted, so long as such repair or upgrade does not increase the overall size of the WCF Structure or the number of Antennae, subject to the WBCA.

D. Related Equipment. Ground-mounted Related Equipment connected to or associated with a Non-Tower WCF outside the Right-of-Way shall be installed underground, if feasible. Ground-mounted Related Equipment that cannot be installed underground shall be screened from public view using Stealth Technology, landscaping and other decorative features to the satisfaction of the Township. Electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.

E. Inspection. The Township reserves the right to inspect any Non-Tower WCF to ensure compliance with the provisions of this Part and any other provisions of the Township Code of Ordinances or state or federal law. The Township, its agents, consultants, contractors, and employees, shall have the authority to enter the property upon which a WCF Structure is located at any time, upon reasonable notice to the operator, to ensure such compliance.

Section 2008. Non-Tower Wireless Communications Facilities Located in the Right-of-Way. The following additional regulations shall apply to all Non-Tower Wireless Communications Facilities located in the Right-of-Way:

A. Location. Non-Tower WCFs in the ROW shall only be located on existing poles, such as street lights or utility poles.

B. Design Regulations:

(1) Non-Tower WCF installations located above the surface grade in the ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and are compatible in scale and proportion to the structures upon which they are mounted, subject to the WBCA. All equipment shall be the smallest and least visibly intrusive equipment feasible.

(2) Antennae and all Related Equipment shall be designed using Stealth Technology to visibly match the Wireless Support. Non-Tower WCFs and accessory equipment shall be painted, or otherwise coated, to be visually compatible with the Wireless Support upon which they are mounted. The Stealth Technology chosen by the Applicant and its application shall be subject to the approval of the Township.

C. Reimbursement for ROW Use. In addition to permit fees as described in this Part, every Non-Tower WCF located in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW and all costs incurred by the Township as a result of such activities. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The annual ROW management fee for Non-Tower WCFs shall be determined by the Township and authorized by resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such Non-Tower WCF.

D. Time, Place and Manner Restrictions. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

E. Related Equipment. Related Equipment connected to or associated with Non-Tower WCFs located in the Right-of-Way shall be installed underground if located in the Right-of-Way or within an easement area located on a privately-owned adjacent lot so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:

(1) Related Equipment shall be screened, to the fullest extent possible, through the use of Stealth Technology, including decorative features, to the satisfaction of the Township. Such screening shall maintain clear sight distance for motorists.

(2) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.

(3) Any underground vault related to Non-Tower WCFs and/or Related Equipment shall be reviewed and approved by the Township.

F. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a Non-Tower WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF Structure when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

(1) The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way.

- (2) The operations of the Township or other governmental entity in the Right-of-Way.
- (3) Vacation of a street or road or the release of a utility easement.
- (4) An Emergency as determined by the Township.

Section 2009. Violations and Penalties.

A. Penalties. Any Person who shall violate any provision of this Part 20 or who, being the owner of a lot, shall permit such violation to occur thereon, shall be subject to the enforcement proceedings and penalties set forth in Part 18 of this Chapter. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur.

B. Police Powers. The Township, by granting any permit or taking any other action pursuant to this Part 20, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.

SECTION 13. – Zoning Map Amendment.

The Zoning Map of East Coventry Township is hereby amended to eliminate the Wireless Communications Facilities Overlay District. A true and correct copy of the Zoning Map of East Coventry Township, Chester County, Pennsylvania, as amended herein, dated February 14, 2011, with a revision date of April 26, 2016, is attached hereto as Exhibit “A”.

SECTION 14. – Severability.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 15. – Failure to Enforce Not a Waiver.

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION 16. – Effective Date.

This Ordinance shall take effect and be in force from and after its approval as required by the law.

SECTION 17. – Repealer.

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

ORDAINED and ENACTED by the Board of Supervisors of East Coventry Township, Chester County, Pennsylvania, this _____ day of _____, 2016.

EAST COVENTRY TOWNSHIP

By: _____
Ray A. Kolb, Chairman

Attest: _____
Bernard A. Rodgers, Secretary

NOTICE

NOTICE is hereby given that the Board of Supervisors of East Coventry Township, at its public meeting on July 11, 2016 at the Township Building, 855 Ellis Woods Road, Pottstown, Pennsylvania, will consider and could vote to adopt an Ordinance Amending the Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 202 (Definitions) to Delete Certain Definitions, to Amend Certain Definitions and to Add Certain Definitions of Terms Relating to Wireless Communications Facilities; to Further Amend Chapter 27 (Zoning), Part 3 (Zoning Districts And Boundaries), Section 301 (Establishment of Districts), Subsection 2, Paragraph F and Section 303 (Zoning District Boundaries), Subsection 2 (Overlay District Boundaries), Paragraph C (Wireless Communications Facilities Overlay District Boundaries and Regulations) to Eliminate the Wireless Communications Facilities Overlay District and to Move the Requirements for Approval of Wireless Communications Facilities to New Part 20 (Wireless Communications Facilities); to Amend Chapter 27 (Zoning), Part 5 (Fr Farm Residential District), Section 502 (Use Regulations), Subsection 2 (Conditional Uses), to Permit Wireless Communications Facility Structures By Conditional Use; to Amend Chapter 27 (Zoning), Part 9 (NC Neighborhood Commercial District and C Commercial District), Section 902 (Use Regulations), Subsection 2 (NC Neighborhood Commercial District Conditional Uses), to Permit Wireless Communications Facility Structures By Conditional Use; to Amend Chapter 27 (Zoning), Part 13 (General and Supplemental Regulations and Design Standards), Section 1303 (Exemptions to Height Restrictions) to Make All Wireless Communications Facilities Subject to the Height Restrictions in New Part 20; to Amend and Restate and Relocate the Regulations Pertaining to Wireless Communications Facilities to Part 20 (Wireless Communications Facilities) in Their Entirety to Contain the Following Sections: Purpose;

Applicability; General Requirements For All WCF Structures and All Wireless Communications Facilities; Requirements For Tower-Based Wireless Communications Facilities Located Outside the Right-Of-Way; Tower-Based Wireless Communications Facilities Located in the Right-Of-Way; Requirements For All Non-Tower Wireless Communications Facilities; Non-Tower Wireless Communications Facilities Located Outside the Right-Of-Way; Non-Tower Wireless Communications Facilities Located in the Right-Of-Way; Violations and Penalties; and to Amend the Zoning Map of East Coventry Township to Eliminate the Wireless Communications Facilities Overlay District.

Copies of the full text of the proposed ordinance are available for examination during normal business hours without charge at the offices of *The Pottstown Mercury*, 24 North Hanover Street, Pottstown, Pennsylvania 19464, the Chester County Law Library, 201 West Market Street, Suite 2400, West Chester, Pennsylvania 19380-0989 and the East Coventry Township Building, 855 Ellis Woods Road, Pottstown, Pennsylvania 19465, where a copy of the proposed ordinance may be obtained for a charge not greater than the cost thereof.

MARK A. HOSTERMAN, ESQUIRE
WISLER PEARLSTINE, LLP
Solicitor for East Coventry Township