

**POCONO TOWNSHIP ZONING ORDINANCE, ZONING MAP, SALDO
AMENDMENTS**

MEETING #18 AGENDA

October 28, 2024 - 6:00pm

Pocono Township Municipal Building

1. Review of Draft #3 of Article V Supplementary Regulations:

- Accessory Apartments**
- Multi-Family Residential**
- Data Centers**
- Wireless Communications Facilities**

2. Confirm Next Meeting Date – November 26, 2024

Latest revisions are shown in yellow highlight

- C. ~~Contractor yards~~ The following minimum setbacks shall apply, except that if a more restrictive setback is required for the zoning district in which the use is located, the more restrictive setback shall apply.
- (1) Any principal or accessory building shall comply with the minimum setback of the zoning district in which it is located.
 - (2) ~~Contractor yards~~ Any equipment, vehicle, supply, or material storage area shall not be less than three hundred (300) feet from any existing principal residential, commercial, institutional, or public building, other than such building located on the property on which the use is located.
 - (3) ~~Contractor yards~~ Any equipment, vehicle, supply, or material storage area shall not be less than 50 feet from any property line other than a property line along a public road right-of-way.
 - (4) ~~Contractor yards~~ Any equipment, vehicle, supply, or material storage area shall not be less than fifty (50) feet from any public road right-of-way.
 - (5) ~~Contractor yards~~ Any equipment, vehicle, supply, or material storage area shall not be less than 150 feet from any stream, water body or wetland.
- D. ~~Contractor yards~~ The use shall be located on slopes of less than eight (8) percent. Low spots and poorly drained areas shall be avoided.

§ 470-87.? Accessory apartment.

- A. This accessory use allows a smaller secondary dwelling unit within an existing single-family detached dwelling without substantial exterior modification to the existing building. The purpose of this use is to protect and allow efficient use of the existing housing stock, and to provide an opportunity to allow housing to meet the specific housing needs of Township families as well as allow the owners to remain residents of that dwelling and the Township.
- (1) An accessory apartment shall be permitted only in single-family detached dwellings, subject to adequate septic capacity.
 - (2) The accessory apartment shall remain accessory and secondary to the principal single-family detached dwelling.
 - (3) ~~Neither the accessory apartment nor the principal single-family dwelling shall be utilized as a transient dwelling use unless permitted by Chapter 302, Transient Dwelling Use of a Single Family Dwellings.~~
 - (4) The area and bulk regulations of the zoning district shall apply to the lot on which the accessory apartment is located.

- (5) No more than one accessory apartment shall be allowed on each lot.
- (6) The accessory apartment shall be permitted only in one of the following configurations:
 - (a) Located in the existing principal dwelling and may be a conversion of an existing part of the building, such as an attached garage or upper story of the dwelling, and designed so that to the greatest extent possible, the appearance of the principal dwelling remains that of a single-family detached dwelling. Entrances to the accessory apartment shall be located to the rear or side of the building.
 - (b) Contained within an accessory building on the same lot as the principal dwelling.
 - (c) Additions of no greater than 15% of the of the gross floor area of to the existing dwelling or accessory building shall be permitted in conjunction with the creation of an accessory apartment in order to facilitate more logical design or layout or as may be needed for enclosed stairwells or to meet Township and state safety codes. Additions shall comply with all applicable setback requirements in the district in which the use is located.
- (7) The accessory apartment, whether in the principal dwelling or in an accessory building, shall be no more than 30% of the total floor area of the principal dwelling or accessory building, and shall have a minimum floor area of 400 square feet.
- (8) Two off street parking spaces shall be provided for a accessory apartment in addition to the parking requirements for the principal use.
- (9) Either the principal single-family dwelling or the accessory apartment shall be occupied by the bona fide owner of the property on which both dwelling units are located. The other dwelling shall only be occupied by a relative of the property owner.
- (10) The applicant shall establish a legally binding mechanism in a form acceptable to the Township that will prohibit the use of the accessory apartment as a separate dwelling unit after the relative no longer resides within the unit. Such mechanism shall also be binding upon future owners.

§ 470-87.2 Convenience stores and mini markets.

- A. All convenience stores or mini markets shall be designed in accordance with subsections (1) through (6) below. If the use includes vehicle fueling, then it shall also comply with § 470-84, Vehicle Fueling Stations.
 - (1) The convenience store or mini market shall contain a minimum gross floor area of not less than 4,000 square feet and a maximum gross floor area of not more than 10,000 square feet, exclusive of any area of such lot being used for gasoline pump dispensers

- B. The applicant shall demonstrate that access to and the design of the parking facilities shall not create vehicle backups onto existing abutting streets.
- C. The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers shall meet the appropriate front, side and rear setback requirements for the district.
- D. No vehicles shall be stored in any required setback areas
- E. Activities which are normally accessory to such sales operations, such as engine repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accordance with the applicable standards in §470-85.

§ 470-87.?. Multi-family dwelling (R-2, RD, C-1, C-2)

Townhouse dwellings that are part of a conservation subdivision design development shall comply with § 470-87.6. All other multi-family dwelling unit developments shall meet the following standards:

- A. The area and bulk regulations under the applicable zoning district shall be met, except that where the development is served by public sewer and public water the maximum gross residential density shall be 5 dwelling units per acre.
- B. A minimum of 30% of the gross lot area shall be devoted to common open space.
- C. The following dimensional requirements shall apply to townhouse dwellings:
 - (1) Minimum lot area for individual townhouse units: 2,000 square feet
 - (2) Minimum lot width for individual townhouse units : 20 feet
 - (3) Maximum number of townhouse units attached in a common row: four
- D. The maximum length of a multifamily apartment building shall be ??? feet. **OR** a maximum of 8 apartment units per building as with PRD? (swifwater apts are approx. 340 ft/28 units and 200 ft/24 units) **OR** let the building size be determined by the district's impervious cover limit and parking requirements.
- E. Setbacks.
 - (1) A minimum setback of 50 feet for any structure shall be maintained from all existing or proposed road rights-of-way and from the boundary line of the entire project parcel. This setback may be reduced at the discretion of the Township if such a reduction is required in

order to enable parking to be located to the side or rear of the building or to better facilitate site and building design in accordance with the standards in this § 470-87.?

- (2) Dwelling units shall be set back a minimum of 20 feet from parking areas, refuse collection centers, and the shoulder of any access drive to or through the development.
- (3) Staggered setbacks of townhouse units shall be required so the buildings offer visual variety. No more than two contiguous townhouse units shall have the same facade setback within a building. Changes in unit setback shall involve a minimum of four feet.

E. The following building separation distances shall be met in order to provide individual dwelling units with some level of privacy: Multifamily dwelling unit buildings shall not be located within 75 feet of any other residential building.

- (1) Facing front or rear walls: 50 feet. When a modification request is submitted by the applicant, the Township may, when unusual topography or site conditions justify the request, reduce this separation requirement to 50 feet.
- (2) Facing end walls (short wall): 25 feet. Modifications to reduce separation may not be granted to more than 50% of the total multifamily dwelling unit buildings.

F. Building design standards. Multifamily buildings shall be designed in accordance with the following:

- (1) The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained to retain the residential character of the neighborhood.
- (2) Building facades which abut a street, parking lot, access drive, public way, or adjoining residential property shall be articulated to create light and shadow, express the rhythm of architectural bays, and reduce the scale of building masses. Building facades shall be articulated through the use of architectural elements, including but not limited to porticos, pediments, friezes, cornices, canopies, awnings, pilasters, and/or water tables, and through the use of no more than two different but complementary building materials.
- (3) Townhouse buildings shall incorporate staggered setbacks in accordance with Subsection E(3), above.
- (4) Where any individual apartment building facade (or adjoining facades which abut flush to the same building line) exceeds 60 feet in length, there shall be an offset in facade of at least 10 feet, effectively breaking the single facade into two or more facades each no more than 60 feet in length. Single facades greater than 60 feet in length may be permitted at the discretion of the Township, where the applicant demonstrates to the satisfaction of the Township that the design of the building and its relationship to surrounding buildings and landscaped areas mitigates any negative impacts of long

continuous building facade(s) on the character of the zoning district in which it is located.

- (5) Multifamily buildings shall generally have pitched roofs with overhanging eaves. Where flat roofs are provided, they shall be articulated with parapets and cornices. No roof ridge shall exceed 60 feet in length without having at least one vertical change in height. The change in height shall be no less than 12 inches. The use of dormers and gables is encouraged to provide visual interest.
- (6) Stairways and stairwells accessing apartment units on the upper floors shall be located in the rear of the building and shall not be located on any exterior wall facing a street unless any building, fire or other code so requires.
- (7) Fire escapes, when required, shall be located in the rear of the building and shall not be located on any exterior wall facing a street unless any building, fire or other code so requires.
- (8) All facilities and equipment for heating/air conditioning, trash collection and compaction, and other structural elements shall be concealed architecturally or otherwise screened from view from any public right-of-way or public space (including internal public spaces within a development).
- (9) Exterior building materials shall be composed of one dominant facing material and not more than one additional secondary material. The dominant material shall comprise 60% or greater of the building's street front facade(s) and 30% of all other facades. The use of stone, brick, wood and hardiplank clapboard, and cementitious/fiber lap siding is encouraged.

G. Parking Design Standards

- (1) When the garage doors of a townhome unit face a street, the garage shall comprise no more than 30% of the total area of the front facade elevation of the dwelling unit. Garage doors shall be set back a minimum of four feet from the front facade plane of the dwelling unit. No more than two garage doors facing a street may be located in a row. In the case of end units, garages shall be side-loaded or located to the rear of the unit.
- (2) Parking areas for multifamily apartment buildings shall not be located between the front facade of the building and the street. Parking areas for multifamily apartment buildings shall be located to the rear or side of the building. Parking areas located to the side of the building shall be screened in accordance with §390-59.

H. Multifamily buildings are encouraged to be located in clusters which create common courtyards and open space areas rather than situated parallel to one another.

I. Buildings shall provide individual dwelling units with views and access to common open space areas.

- J. Entrances to dwelling units shall be provided with walkways to parking and refuse collection areas. Walkways shall meet the requirements for sidewalks as set forth in Chapter 390, Subdivision and Land Development.
- K. Exterior storage areas for trash and recycling shall be screened from public view and shall be contained in covered, vermin-proof containers. Interior storage areas for trash and recycling shall at all times be kept in an orderly and sanitary fashion.
- L. Lighting shall be provided sufficient in number and intensity to provide for the safe movement of vehicles and pedestrians. Lighting shall not reflect toward public streets or cause any annoyance to surrounding properties.
- M. Ancillary facilities such as laundry areas, service buildings, recreational facilities and the like for the use of the residents of the development shall be permitted.
- N. The applicant shall provide architectural renderings, models or photos in sufficient detail to illustrate the design of the building(s).
- O. In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject development.

§ 470-87.?.Data Centers

A. Data centers shall meet the following design standards:

- (1) Setbacks. The data center and associated equipment and structures shall be setback a minimum of 200 feet from the property line of any adjacent residential use or residential zoning district boundary.
- (2) Principal building façades. Principal building façades shall include all building façades that face adjacent public roads, adjacent residential use, or adjacent residentially zoned land. When a building has more than one principal façade, such principal building façades shall be consistent in terms of design, materials, details, and treatment. Principal building façades shall avoid the use of undifferentiated surfaces by including the following design elements:
 - (a) Fenestration on a minimum of 30% of the principal façade surface area located in separated individual placements or clustered bays and distributed horizontally and vertically across the principal façade; and
 - (b) A change in building material, pattern, texture, color, or accent materials.

- (3) Main entrance feature. At least one main entrance feature shall be provided. Such main entrance features shall either project or recess from the main building plane, and/or be differentiated from the remainder of the building facade by a change in building material. Landscaping of the main entrance feature is encouraged.
- (4) Building step-back. The building envelope shall provide a step-back of no less than 15 feet from the building wall at a height point that begins at the top of the second story of the building or 40 feet, whichever of the two is lower.
- (5) Screening of mechanical equipment. Ground level and roof top mechanical equipment shall be screened from view on all sides with a visually solid screen. Such screen shall may be provided by a visually solid fence, screen wall or panel, parapet wall, or other visually solid screen that shall be constructed of materials compatible with those used in the exterior construction of the principal building. Such screen may incorporate perforated surfaces on as necessary to permit ventilation of the equipment. Mechanical equipment located in a manner found to have no adverse impact on adjacent roads and adjacent industrial or commercial properties, as determined by the Board of Commissioners, shall not be required to be screened.
- (6) Fencing. Fencing of the property may be permitted, provided that fencing is not chain-link, with or without slatted inserts, and does not include barbed wire or other similarly visibly intrusive deterrence device. Fencing visibility shall be reduced through the use of landscaping and other methods to reduce visibility approved by the Township.
- (7) Noise emanating from a data center shall not exceed the levels specified in §470-. Performance standards. Upon issuance of a certificate of occupancy, the data center operator shall conduct a noise study performed by a third-party acoustical engineer to document noise levels emanating from the Data Center measured at the property line of the nearest residential property or residential district boundary, or other noise sensitive use as reasonably determined by the Zoning Officer, during peak operation of the Data Center mechanical equipment. The Data Center operator shall also conduct an additional noise study performed by a third-party acoustical engineer, as measured at the property line of the nearest residential property or residential district boundary, or other noise sensitive use as reasonably determined by the Zoning Officer, during peak operation of the Data Center mechanical equipment annually for five years after completion of the initial noise study. The Data Center operator shall provide the results of the noise study to the Township within thirty days of the anniversary of the date on which the certificate of occupancy was issued.
- (8) If the Data Center operator intends to use backup power generators, the operator shall maintain a public website announcing the times when the generators will be in operation. Any routine operation of the backup generators, including for testing purposes, shall be announced on the website at least 24 hours in advance. The operator shall also notify the Township at least 24 hours in advance of a test. Unless the generators are supplying backup electrical supply during a power outage, backup generators may operate between

the hours of 9:00 am and 5:00 pm, Monday through Friday, excluding holidays. Upon request by the Township, the Data Center operator shall provide the address of the website where the notices required by this section are published.

§470-52 Wireless Communication Facilities (WCF) (Replace current 470-52 with the following)

A. Purposes.

- (1) The purpose of this §470-52 is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in the Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse effects of such facilities through the standards set forth in the following provisions.
- (2) By enacting these provisions, the Township intends to:
 - (a) Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision of necessary services;
 - (b) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
 - (c) Establish procedures for the design, siting, construction, installation, maintenance, and removal of both tower-based and non-tower based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
 - (d) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, small wireless communications facilities, cable Wi-Fi and other wireless communications facilities;
 - (e) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color, and finish and by requiring that competing providers of wireless communications services collocate their commercial communications antennas and related facilities on existing towers;
 - (f) Promote the health, safety, and welfare of the Township's residents.

B. Definitions. Words and phrases used in this §470-52 shall have the meanings set forth below. Words and phrases not defined in this §470-52 but defined in Article II shall be given the meanings set forth in that Article. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

- (1) *Accessory Equipment* - any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- (2) *Antenna* — an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

- (3) *Collocation*—the placement or installation of new wireless communications facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunications facilities if approved by the Township. The term includes the placement, replacement or modification of accessory equipment within a previously approved equipment compound.
- (4) *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 rights-of-way to be unusable and result in loss of the services provided.
- (5) *Equipment Compound*—an area surrounding or adjacent to a wireless support structure within which base stations, power supplies, or accessory equipment are located.
- (6) *FCC*—Federal Communications Commission.
- (7) *Height of a Tower-Based WCF* - the vertical distance measured from the ground level, including any base pad, to the highest point on a tower-based WCF, including antennae mounted on the tower and any other appurtenances.
- (8) *Micro Wireless Facility* - a small cell that is no larger than 24 inches long, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches.
- (9) *Modification* or *Modify*—the improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion, or replacement does not substantially change the physical dimensions of the wireless support structure.
- (10) *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—Wireless communications facilities collocated on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower.
- (11) *Person*—individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania, provided that “Person” does not include or apply to the Township, or to any department or agency of the Township.
- (12) *Replacement* -- the replacement of existing wireless communications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.
- (13) *Small Wireless Communications Facility* -- A wireless communications facility that meets the following criteria:

- (a) The structure on which antenna facilities are mounted:
 - [1] is 50 feet or less in height, or
 - [2] is no more than 10 percent taller than other adjacent structures, or
 - [3] is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
 - (b) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and
 - (c) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume;
 - (d) The facilities do not require antenna structure registration under 47 CFR Part 17;
 - (e) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
 - (f) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).
- (14) *Stealth Technology*—camouflaging methods applied to wireless communications facilities and accessory equipment 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, and light poles.
- (15) *Substantially Change or Substantial Change* - A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
- (a) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater.
 - [1] Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.
 - (b) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (c) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in

the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

- (d) It entails any excavation or deployment outside the current site;
- (e) It would defeat the concealment elements of the eligible support structure; or
- (f) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified by FCC rules and regulations.

(16) *Tower*—Any structure, other than a building, that is designed and constructed primarily for the purpose of supporting one or more antennas and includes self-supporting lattice towers, guyed towers, monopole towers and alternative tower structures, including the base pad and any support thereto.

(17) *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—any structure that is used for the primary purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying Antenna and Accessory Equipment.

(18) *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)

(19) *Wireless* — transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

(20) *Wireless Communications Facility (WCF)*— The set of equipment and network components, including antennas, transmitters, receivers, base stations, cabling and accessory equipment, used to provide wireless data and telecommunications services. The term shall not include the wireless support structure.

(21) *Wireless Communications Facility Applicant (WCF Applicant)*—any person that applies for a wireless communications facility building permit, zoning approval and/or permission to use the public right-of-way or other Township owned land or property.

(22) *Wireless Support Structure (WSS)*—a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

C. General and Specific Requirements for Non-Tower Wireless Communications Facilities that do not meet the definition of a Small WCF.

(1) The following regulations shall apply to all Non-Tower WCF:

(a) Permitted in All Zoning Districts Subject to Regulations. Non-Tower WCF are permitted by right in all zoning districts subject to the restrictions and conditions prescribed by this §470-52C and generally applicable permitting by the Township.

(b) Permit Requirements.

[1] No Substantial Change.

[a] WCF Applicants proposing the Collocation, or Modification of a Non-Tower WCF that does not Substantially Change the physical dimensions of the Wireless Support Structure to which it is attached shall be required only to obtain a building permit from the Township Building Code Official.

[b] WCF Applicants proposing the Replacement, Collocation, or Modification of a Wireless Support Structure that does not constitute a Substantial Change to the preexisting Wireless Support Structure shall be required only to obtain a building permit from the Township Building Code Official.

[c] Replacement of WCFs on existing wireless support structures or within existing equipment compounds may be performed by the WCF Applicant without obtaining building or zoning permits from the Township.

[2] Substantial Change. WCF Applicants proposing the Replacement, Collocation, or Modification of a Non-Tower WCF or Wireless Support Structure that Substantially Changes the physical dimensions of the Wireless Support Structure shall be required to obtain a zoning permit from the Township Zoning Officer.

(c) Nonconforming Wireless Support Structures. Non-Tower WCF shall be permitted to Collocate upon non-conforming Tower-Based WCF and other non-conforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.

(d) Standard of Care. Any Non-Tower WCF shall be designed, constructed, 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, or to the industry standard applicable to the structure. Any WCF 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.

(e) Wind and Ice. All Non-Tower WCF shall be designed to withstand the effects of wind gusts and ice 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/TIA-222, as amended), or to the industry standard applicable to the structure.

(f) Aviation Safety. Non-Tower WCF shall comply with all federal and state laws and regulations concerning aviation safety.

(g) Public Safety Communications. Non-Tower WCF shall not interfere with public safety communications, or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.

(h) Radio Frequency Emissions. A Non-Tower WCF shall not, by itself or in conjunction with other WCFs, 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.

- (i) Removal. In the event that use of a Non-Tower WCF is to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when use shall be discontinued. Unused or abandoned WCF, or portions of WCF, shall be removed as follows:
 - [1] All abandoned or unused WCFs and Accessory Equipment shall be removed within 60 days of the cessation of operations at the site unless a time extension is approved by the Township.
 - [2] If the WCF or Accessory Equipment is not removed within 60 days of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
- (j) Financial security. Prior to receipt of a permit for the construction or placement of a Non-Tower WCF, the WCF Applicant shall provide to the Township financial security sufficient to guarantee the removal of the Non-Tower WCF. Said financial security shall remain in place until the Non-Tower WCF is removed.
- (k) Insurance. Each Person that owns or operates a Non-Tower WCF shall annually 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 in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower WCF.
- (l) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - [1] The Non-Tower WCF 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 compliance with applicable structural safety standards and radio frequency emissions regulations.
 - [3] All maintenance activities shall conform to industry maintenance standards.
- (m) Timing of Approval.
 - [1] Non-Tower WCF on a preexisting Wireless Support Structure that Substantially Changes the Wireless Support Structure to which it is attached: Within 30 calendar days of the date that an application for the Non-Tower WCF is filed with the Township, the Township shall notify the WCF applicant, in writing, of any information that may be required to complete such application. Within 90 days of receipt of a complete application, the zoning officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
 - [2] Non-Tower WCF on a preexisting Wireless Support Structure that Does Not Substantially Change the Wireless Support Structure to which it is attached: All applications for such WCF shall demonstrate that the proposed WCF does not Substantially Change the Wireless Support Structure to which it is attached. Within 30 calendar days of the date that an application for the

Non-Tower WCF is filed with the Township, the Township shall notify the WCF applicant, in writing, of any information that may be required to complete such application. Within 60 days of receipt of a complete application the Township Building Code Official shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision. In the case of an application which demonstrates that the Non-Tower WCF complies with the requirements of the Township Building Code and does not Substantially Change the Wireless Support Structure to which it is attached, the Township Building Code Official shall, within the 60 day time frame, issue the required building permits authorizing construction of the WCF.

[3] Replacement, Collocation, or Modification of a Wireless Support Structure that does not constitute a Substantial Change to the preexisting Wireless Support Structure: The timing of approval specified in subsection m[2] above shall apply.

(n) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Non-Tower WCF, as well as any related inspection, monitoring, and related costs. Such permit fees shall be established by the Township Fee Schedule and shall comply with the applicable requirements of the FCC and the Commonwealth of Pennsylvania.

(2) In addition to the requirements in §470-52C(1) above, the following regulations shall apply to all Non-Tower WCF that Substantially Change the Wireless Support Structure to which they are attached, or that otherwise do not fall under the Pennsylvania Wireless Broadband Collocation Act:

(a) Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and Antennae for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this §470-52.

(b) Prohibited on Certain Structures. No Non-Tower WCF shall be located on single-family detached dwellings, two-family dwellings, townhouse dwellings, or any residential accessory structure.

(c) Historic Resources. No Non-Tower WCF may be located within one hundred (100) feet of any property, or on a building or structure, that is listed on either the National or Pennsylvania Register of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic resource list maintained by the Township.

(d) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Non-Tower WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township Fee Schedule and shall comply with the applicable requirements of the FCC and the Commonwealth of Pennsylvania.

(a) Development Regulations.

[1] The total height of any Wireless Support Structure and mounted WCF shall not exceed 20 feet above the maximum height permitted in the underlying zoning district.

[2] All Non-Tower WCF Applicants must submit documentation to the Township justifying the total height of the WCF.

- [3] If the WCF Applicant proposes to locate the Accessory Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- [4] A security fence not to exceed eight (8) feet in height 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.
- (b) Design. Non-Tower WCF shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology utilized by the WCF Applicant shall be subject to the approval of the Township.
- (c) Removal, Replacement and Substantial Change.
 - [1] The removal and Replacement of Non-Tower WCF and/or Accessory Equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or increase the number of Antennae.
 - [2] Any Substantial Change to a WCF shall require notice to be provided to the zoning officer, and possible supplemental permit approval as determined by the zoning officer.
- (d) The Township reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within this ordinance or state or federal law. The Township and/or its agents shall have the authority to enter the area of any property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (3) Regulations Applicable to all Non-Tower WCF located in the Public Rights-of-Way. In addition to the applicable Non-Tower WCF provisions listed in this §470-52C, the following regulations shall apply to Non-Tower WCF located in the public Rights-of-Way:
 - (a) Location. Non-Tower WCF in the ROW shall be Collocated on existing Wireless Support Structures. If the existing WSS is not able to properly support such co-location, then the existing WSS may be removed and replaced with a replacement WSS that is consistent with the style and design of the existing WSS and of equal proportions and of equal height or such other height that would not constitute a substantial change in order to support the WCF or to accommodate co-location. The replacement WSS shall be placed in the identical position or near identical position as the existing WSS.
 - (b) Design Requirements.
 - [1] WCF installations located above the surface grade in the public 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 that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - [2] Antenna and Accessory Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

- (c) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- (d) Equipment Location. Non-tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township Board of Commissioners. In addition:
 - [1] In no case shall ground-mounted Accessory Equipment, walls, or landscaping be located within 18 inches of the face of the curb, within four feet of the edge of the cartway, or within an easement extending onto a privately-owned lot;
 - [2] Ground-mounted equipment shall be located underground. Ground-mounted Accessory Equipment that cannot be placed underground shall be screened from surrounding views to the fullest extent possible through the use of landscaping or other features to the satisfaction of the Township. Screening shall not cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township Board of Commissioners.
 - [3] Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township. The WCF owner shall be solely responsible for this requirement.
 - [4] Any graffiti on any Accessory Equipment shall be removed within thirty (30) days upon notification by the Township at the sole expense of the owner.
 - [5] Any proposed underground vault related to Non-Tower WCF shall be reviewed and approved by the Township.
 - [6] Accessory equipment attached to the Wireless Support Structure shall have a minimum of eight feet of vertical clearance above finished grade.
- (e) Relocation or Removal of Facilities. Within 90 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 WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF 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.
- (f) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Non-Tower WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. 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 owner of each Non-Tower WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

D. General and Specific Requirements for Tower-Based Wireless Communications Facilities.

(1) The following regulations shall apply to all Tower-Based Wireless Communications that do not meet the definition of a Small WCF.

(a) Special Exception Required. Tower-Based WCF are permitted by special exception and at a height necessary to satisfy their function in the WCF Applicant's wireless communications system, subject to the requirements of this §470-52D.

[1] Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall send via First Class Mail notice to all owners of every property within 500 feet of the proposed facility, advising of the subject matter and date of such hearing. Such notice shall be sent at least 10 days in advance of any such hearing. The WCF Applicant shall provide proof of the notification to the Board of Supervisors along with the list of return receipts received.

[2] Prior to Zoning Hearing Board approval of a special exception authorizing the construction and installation of a Tower-Based WCF, it shall be incumbent upon the WCF Applicant for such special exception approval to prove to the reasonable satisfaction of the Zoning Hearing Board that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment such as repeaters, Antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable, less-intrusive alternative location exists. This test is also met when the WCF Applicant demonstrates that the WCF is being proposed to densify an existing wireless network, introduce new services, or otherwise improve service capabilities.

[3] The special exception application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping, and existing uses on adjacent properties.

[4] The special exception application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.

[5] The special exception application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all state and federal laws and regulations concerning aviation safety.

- [6] Where the Tower-Based WCF is located on a property that is not owned by the WCF Applicant, the WCF Applicant shall present documentation to Township Board of Supervisors that the owner of the property has granted an easement or other property right, if necessary, for the proposed WCF and that vehicular access will be provided to the facility.
- [7] Prior to the issuance of a zoning permit authorizing construction and erection of a Tower-Based WCF, a structural engineer licensed in the Commonwealth of Pennsylvania shall issue to the Township a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the special exception hearing or at a minimum be made a condition attached to any special exception approval given such that the certification must be provided prior to issuance of any zoning or building permits.
- [8] An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. Township Board of Supervisors may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing structure. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - [a] The proposed Antenna and Accessory Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - [b] The proposed Antenna and Accessory Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - [c] Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - [d] A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

The Board of Supervisors may require that an applicant reimburse the Township a maximum amount of \$1,000.00 to conduct an independent professional review of the WCF Applicant's evidence.

- [9] The special exception application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions of this ordinance.

(b) Development Regulations.

- [1] Underground Utilities. Tower-Based WCF shall not be located in, or within 50 feet of an area in which all utilities are located underground, unless the WCF Applicant proves to the satisfaction

of the Township that installing its facility in such a location is necessary to provide Wireless service and that no other feasible alternative exists.

- [2] Zoning Districts. Tower-Based WCF are permitted outside the public Right-of-Way only in the zoning districts identified by the Schedule of Uses.
- [3] Sole Use on a Lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum requirements of the underlying zoning district.
- [4] Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential use, subject to the following conditions:
 - [a] The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.
 - [b] Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.

(c) Design Regulations.

- [1] Height. Tower-Based WCFs shall be designed and kept at the minimum functional height. The maximum total height of a Tower-Based WCF shall not exceed 150 feet as measured vertically from the ground level to the highest point on the structure, including Antennae and subsequent alterations. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF Applicant shall demonstrate that the Tower-Based WCF is the minimum height necessary for the service area.
- [2] Visual Appearance and Land Use Compatibility. Tower-Based WCF shall employ Stealth Technology which may include the tower portion to be painted brown or another color approved by the Zoning Hearing Board or shall have a galvanized finish. All Tower-Based WCF and Accessory Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; prevent a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.
- [3] Design. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennae and comparable Antennae for future users.
- [4] Anti-Climbing Device. Any Tower-Based WCF over 40 feet in height shall be equipped with an anti-climbing device, as anti-climbing device approved by the manufacturer.

- [5] Minimum Setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street Right-of-Way line shall equal 110% percent of the proposed WCF structure's height or the applicable principal building setback, whichever is greater, unless the Applicant shows to the satisfaction of the Zoning Hearing Board that the proposed Tower-Based WCF has been designed in such a manner that a lesser setback will have no negative effects on public safety.

(d) Surrounding Environs.

- [1] The WCF Applicant shall ensure that the existing vegetation, trees, and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- [2] The WCF Applicant shall submit a soil report to the Zoning Hearing Board complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

(e) Fence/Screen.

- [1] A security fence having a height not to exceed eight feet shall completely surround the Tower-Based WCF, as well as guy wires, or any building housing WCF equipment.
- [2] A screen consisting of a evergreen hedge at least four feet in height and planted three feet on center maximum or consisting of evergreen trees each at least four feet in height and planted 8 feet on center maximum, shall surround the security fence. Existing vegetation shall be preserved to the maximum extent possible.

(f) Accessory Equipment.

- [1] Accessory Equipment associated, or connected, with a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technology. All ground-mounted Accessory Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district, except that ground-mounted Accessory Equipment associated or connected with a Tower-Based WCF shall not be located within 50 feet of a lot in residential use.
- [2] Either one single-story wireless communications equipment building not exceeding 500 square feet in area or its equivalent may be permitted for each unrelated company sharing commercial communications Antenna(e) space on the Tower-Based WCF outside of the public ROW.
- [3] A dry chemical fire suppression system shall be required for any Accessory Equipment building or cabinet containing electrical components.

- (g) Access road. An access road, turnaround space and parking shall be provided to ensure adequate Emergency and service access to Tower-Based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize earth disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF Applicant shall present documentation to the Township that the property owner has granted an easement or

other property right for the proposed facility. If necessary, the WCF Applicant shall obtain a Driveway/Local Road Permit from PennDOT.

- (h) **Parking.** For each Tower-Based WCF, there shall be one off-street parking space.
- (i) **Standard of Care.** Any Tower-Based WCF shall be designed, constructed, 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, the Pennsylvania Uniform Construction Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Tower-Based WCF 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.
- (j) **Additional Antennae.** As a condition of approval for all Tower-Based WCF, the WCF Applicant shall provide the Township with a written commitment that it will allow other service providers to collocate Antennae on Tower-Based WCF where technically and economically feasible. To the extent permissible under state and federal law, the owner of a Tower-Based WCF shall not install any additional Antennae without complying with the applicable requirements of this §470-52.
- (k) **FCC License.** Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and Emergency telephone number for the operator of the facility.
- (l) **Inspection.** The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the Zoning Ordinance and any other provisions found within this ordinance or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (m) **Wind and Ice.** Any Tower-Based WCF shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering department of the Telecommunications Industry Association (ANSI/TIA-222, as amended).
- (n) **Public Safety Communications.** No Tower-Based WCF shall interfere with public safety communications, or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (o) **Maintenance.** The following maintenance requirements shall apply:
 - [1] Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair, or replacement.
 - [2] Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents and utilize industry standard technology for preventing failures and accidents.
- (p) **Radio Frequency Emissions.** A Tower-Based WCF shall not, by itself or in conjunction with other WCFs, 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.

- (q) Historic Resources. No Tower-Based WCF may be located within 100 feet of any property, or on a building or structure, that is listed on, or determined eligible for, either the National or Pennsylvania Registers of Historic Places, or is included in the official historic resource list maintained by the Township.
- (r) Signs. All Tower-Based WCFs shall have a sign posted in a readily visible location identifying the name and phone number of a party to contact in the event of an Emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- (s) Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.
- (t) Noise. Tower-Based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and this ordinance, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (u) Storage. The storage of unused equipment, materials or supplies is prohibited on any Tower-Based WCF site.
- (v) Timing of Approval. Within 30 calendar days of the date that an application for a Tower-Based WCF is filed with the zoning officer, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such Tower-Based WCF and the Zoning Hearing Board shall advise the WCF Applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the 150 day review period.
- (w) Nonconforming Uses. Any Non-conforming Tower-Based WCF which is hereafter damaged or destroyed due to any reason or cause may be repaired and restored at its former location but must otherwise comply with the terms and conditions of this section. The Collocation of Antennae is permitted on non-conforming structures.
- (x) Removal. Tower-Based WCF shall be removed in compliance with the following, without limitation:
 - [1] Notification of Township. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when use shall be discontinued. If a Tower-Based WCF or any of its facilities have not been in operation for a period of six consecutive months, the owner or operator shall notify the Township in writing with the reason(s) for inoperability and their intentions to reestablish operations or plans for removal. The owner or operator is required to notify the Township immediately upon discontinuation or abandonment of the operation. The Tower-

Based WCF or any of its facilities shall be presumed to be discontinued or abandoned if it is out of service for a period of 12 continuous months.

- [2] Six Months Removal. The Tower-Based WCF owner and/or operator shall have six months from discontinuation or abandonment in which to dismantle and remove the facility including all related equipment or appurtenances, including, but not limited to, buildings, cabling, electrical components, roads, foundations, and other associated facilities from the property. The site shall be restored to a useful, nonhazardous condition, including but not limited to the following:

[a] Removal of aboveground and underground equipment, structures, and foundations.

[b] Restoration of the surface grade and soil after removal of aboveground structures and equipment.

[c] Removal of graveled areas and access roads.

[d] Revegetation of restored soil areas with native seed mixes and plant species.

[e] For any part of the facility on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates, or buildings in place or regarding restoration of agricultural crops or forest resource land.

- [3] Landowner Responsibility. If the facility owner or operator fails to complete removal and re-vegetation within the required time period, then removal and re-vegetation in accordance with this ordinance shall become the responsibility of the landowner. Such landowner shall have six months to complete removal and re-vegetation. The responsibility for decommissioning by facility heirs, successors and assigns shall be established by a recorded document acceptable to the Board of Supervisors.

- (y) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Tower-Based WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule and shall comply with the applicable requirements of the FCC.

- (z) Insurance. Each Person that owns or operates a Tower-Based WCF shall provide the Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF.

- (aa) Engineer Signature. All plans and drawings for a Tower-Based WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

- E. Regulations Applicable to all Small Wireless Communications Facilities. Small Wireless Communications Facilities shall comply with this §470-52E, all applicable standards of PA Act 50, the Small Wireless Facilities Deployment Act, and all other applicable state and federal regulations:

- (1) Location and Development Standards.

- (a) Small WCF are permitted by-right in all Township zoning districts, subject to the requirements of this

§470-52E and all other Township, building, fire and other applicable codes.

[1] A permit shall be obtained to perform the following:

- [a] Collocate small WCF.
- [b] Modify small WCF, except as provided for in Subsection E(1)(a)[2], below.
- [c] Replace existing utility poles or other wireless support structures for collocation of small WCF.
- [d] Install new utility poles or other wireless support structures with attached small WCF.

[2] Applicants proposing a Modification to an existing small WCF that does not Substantially Change the dimensions of the underlying support structure shall be required only to obtain a building permit from the Township Building Code Official. All such applications shall demonstrate that the proposed Small WCF does not Substantially Change the Wireless Support Structure to which it is attached.

[3] A permit shall not be required for routine maintenance or repair; the replacement of small WCF with small WCF that are substantially similar or the same size or smaller and still qualify as small WCF; or the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles by or for a communications service provider authorized to occupy the ROW, in compliance with the National Electric Safety Code; unless such activity involves excavation, closure of a sidewalk, or closure of a vehicular lane.

- (b) A consolidated application may be submitted for collocation of multiple Small WCF in ROWs within Pocono Township in accordance with PA Act 50, the Small Wireless Facilities Deployment Act.
- (c) Application fees for small WCF within the ROW shall be in accordance with PA Act 50, the Small Wireless Facilities Deployment Act.
- (d) Small WCF installed in the ROW shall be installed on an existing utility pole or new utility pole subject to the applicable size limits in Subsection E(3), below. Access to municipal poles within the ROW shall be in accordance with PA Act 50, the Small Wireless Facilities Deployment Act.
- (e) All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.
- (f) Small WCF, including accessory equipment, and wireless support structures shall be located so as not obstruct, endanger, or hinder vehicular or pedestrian travel or sight lines; interfere with other utilities; create safety hazards; or otherwise inconvenience public use of the ROW as determined by the Township. Small WCF, accessory equipment, and wireless support structures shall also meet the location requirements specified in subsection (13), below.

(2) Small WCF application submission. All applications for a Small WCF shall be submitted to the Township Zoning Officer and shall include the following information:

- (a) A narrative description of the location of the proposed Small WCF, the type and size of the Small

WCF and accessory equipment, and the Wireless Support Structure to which the Small WCF will be attached.

- (b) Construction drawings signed and sealed by an engineer licensed in the Commonwealth of Pennsylvania which shall include the following:

[1] The type and dimensions of all equipment associated with the Small WCF.

[2] The location of the proposed Small WCF, including both longitude and latitude and street address.

[3] Before and after drawings or simulations of the Wireless Support Structure showing the proposed equipment locations and dimensional change.

[4] ROW lines.

[5] The location of the nearest ingress and egress points of any nearby structures, if applicable.

[6] The location of nearby traffic control signals and pedestrian and bicycle accessways, if applicable.

[7] The location of any ground-mounted Accessory equipment.

- (c) If the Small WCF is proposed for attachment to a Wireless Support Structure that is owned by a party other than the WCF Applicant, proof that the WCF Applicant has obtained permission from such party to attach the Small WCF to the Wireless Support Structure.

(d) Does
Twp want
to require
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- (d) If installation of a new utility pole is proposed, the applicant shall demonstrate that it cannot meet the service reliability and functional objectives of the application by collocating on an existing utility pole or municipal pole. The Applicant shall self-certify that it has made this determination in good faith and shall provide a documented summary of the basis for the determination.

- (e) Certificates of insurance pursuant to the requirements of this §470-52.

- (f) Agreement to indemnify the Township pursuant to this §470-52.

- (g) The name, address, and telephone number of the person preparing the application.

- (h) Pedestrian and worker safety and traffic control plans.

- (i) Statement prepared and signed by an engineer licensed in the Commonwealth of Pennsylvania certifying that the proposed Small WCF is structurally sound and that it is in compliance with applicable safety codes and FCC regulations.

- (3) Size Limits. Small WCF size limits shall be in accordance with the definition of Small WCF in §470-52B, except that:

- (a) The installation of Small WCF on an existing utility pole in the ROW shall not extend more than five feet above the existing utility pole, pursuant to PA Act 50, the Small Wireless Facilities Deployment Act.

- (b) When installation of Small WCF is permitted on a new or replacement utility pole in the ROW, the maximum permitted height, which shall include the utility pole and Small WCF, shall not be taller than 50 feet above ground level, pursuant to PA Act 50, the Small Wireless Facilities Deployment Act.
- (4) Nonconforming Wireless Support Structures. Small WCF shall be permitted to collocate upon nonconforming Tower-Based WCF and other nonconforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is nonconforming as to use within a zoning district.
- (5) Standard of Care. Any Small WCF shall be designed, constructed, 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, or to the industry standard applicable to the structure. A Small WCF 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.
- (6) Notice required. If the WCF Applicant is proposing a Small WCF requiring the installation of a new Wireless Support Structure, the WCF Applicant shall post notice of its submitted permit application at the site of the proposed new Wireless Support Structure in accordance with the requirements of the Township Code. Such notice shall be posted within 10 days of submission of an application for a Small WCF and shall remain in place until the beginning of construction of the Small WCF.
- (7) Aviation Safety. Small WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (8) Public Safety Communications. Small WCF shall not interfere with public safety communications, or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- (9) Radio Frequency Emissions. A Small WCF shall not, by itself or in conjunction with other WCFs, 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.
- (10) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- (11) Graffiti. Any graffiti on the Small Wireless Support Structure or on any Accessory Equipment shall be removed at the sole expense of the owner within 30 days of notification by the Township.
- (12) Design Standards. All Small WCF in the Township shall comply with the following design standards:
- (a) All Small WCFs shall be designed and constructed in a manner that minimizes the aesthetic impact of the SWF To the extent technically feasible.

- (b) All Small WCFs shall comply with Americans with Disabilities Act guidelines and all applicable requirements relating to streets and sidewalks as established by Chapter 390 of the Township Code of Ordinances.
- (c) All Small WCFs shall be designed to withstand the effects of wind gusts and ice 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/TIA-222, as amended), or to the industry standard applicable to the structure.
- (d) Placement of SWF including antennas, wireless support structures, and/or accessory equipment shall not impair light, air, or views from adjacent windows.
- (e) No lighting, including flashing lights, or unnecessary, distracting, or nonessential signage or stickers shall be installed or attached on any SWF, accessory equipment, or wireless support structure unless required by applicable codes.
- (f) Advertisements shall be prohibited on a wireless support structure, accessory equipment, or SWF.
- (g) Antenna standards.

[1] All pole-top Antennas shall be flush-mounted as closely to the top of the utility pole as technically feasible.

[2] All Antennas shall be of a design, style, and color that reasonably matches the support structure upon which they are attached.

[3] Any necessary pole-top extension shall be of the minimum height necessary to achieve separation from the existing pole attachments and shall comply with the height limits specified in in the definition of SWF in §470-52B and applicable limits in §470-52B(3).

[4] Any Antenna mounted on a lateral standoff bracket shall protrude no more than necessary to meet clearances.

[5] If mounted on an existing structure, no Antenna shall impair the function of said structure.

[6] Antenna placement shall not impair light, air, or views from adjacent windows.

- (h) Accessory equipment standards.

[1] Accessory Equipment shall not exceed 28 cubic feet in volume in accordance with the definition of SWF in §470-52B. Camouflaging shall not be included in the Accessory Equipment volume calculation.

[2] Accessory Equipment shall be mounted flush to the side of a utility pole, or as near flush to the side of a utility pole as technically feasible.

[3] Accessory Equipment shall be mounted so as to provide a minimum of eight feet vertical clearance from ground level.

[4] Accessory Equipment shall be of a color that reasonably matches the Wireless Support Structure upon which such Accessory Equipment is mounted.

[5] All Accessory Equipment shall be contained within a single equipment shroud or cabinet which has the smallest physical dimensions possible.

(i) Wiring standards.

[1] No SWF or accessory equipment shall have any exposed cables or wiring. All cables and wiring shall be contained within a wireless support structure unless doing so is not technically feasible. If the cables and wiring cannot be contained within the wireless support structure, then all cables and wires shall be contained within a conduit or U-guard that is flush mounted to the wireless support structure. All conduits and U-guards shall be of a color that matches the wireless support structure to which the SWF is attached.

[2] Spools, loops, and/or coils of excess wires or cables shall not be stored on any wireless support structure.

[3] All cables and wiring shall be installed tautly and without excessive slack or extra cable and/or wire storage on the Wireless Support Structure.

(j) Replacement wireless support structure standards.

[1] The maximum height of any proposed replacement wireless support structure shall conform to the height standards specified in the definition of SWF in §470-52B and applicable limits in §470-52B(3).

[2] Any replacement wireless support structure shall be placed as close as possible to the existing wireless support structure that is being replaced.

[3] Any replacement wireless support structure shall substantially conform to the material and design of the existing wireless support structure.

[4] Any replacement wireless support structure shall be designed to accommodate all uses that existed on the existing utility pole prior to replacement. As part of an application for a Small WCF, the applicant shall provide documentation from a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the replacement utility pole, Small WCF, and prior existing uses shall be structurally sound.

(k) New wireless support structure standards.

[1] The maximum height of any proposed new wireless support structure shall conform to the height standards specified in the definition of SWF in §470-52B and applicable limits in §470-52B(3).

[2] Any wireless support structure shall be installed in accordance with the predominant pattern of existing adjacent structures.

[3] To the extent technically feasible, no new wireless support structure shall be installed:

- [a] In the front facade area of any commercial or residential building.
 - [b] Within 10 feet of the edge of any driveway.
 - [c] In the public rights-of-way directly opposite any driveway.
- (l) Any requests for relief from any of the design standards established in this § 470-52E(13), shall be considered on a case-by-case basis by the Township Zoning Officer and shall be approved upon a determination by the Township Zoning Officer that such relief is necessary to prevent the effective prohibition of wireless service pursuant to state and federal regulations.

(13) Timing of Approval.

- (a) Within 10 days of the date that an application for a Small WCF is filed with the zoning officer, the Township shall notify the Applicant of any information that may be required to complete such application. The notice shall specifically identify the missing information and the specific regulation requiring the information. The shot clock date (processing deadline) shall restart at zero on the date the applicant submits the missing information to render the application complete.
- (b) Within 60 days of receipt of an application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the zoning officer shall make a final decision on whether to approve the application and shall notify the Applicant in writing of such decision.
- (c) Within 90 days of receipt of an application for a Small WCF requiring the installation of a new Wireless Support Structure, including installation a new or replacement of an existing utility pole, the zoning officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
- (d) The Township may deny an application for Small WCF within the ROW in accordance with PA Act 50, the Small Wireless Facilities Deployment Act.
- (e) Approval of an application for Small WCF in the ROW shall, subject to the permit requirements and the applicant's right to terminate at any time, authorize the Applicant to operate and maintain Small WCF and any associated equipment on a utility pole covered by the permit for a period of not less than five years, which shall be renewed for two additional five year periods if the applicant is in compliance with all applicable codes and has obtained consent from the utility pole owner.

(14) Relocation or Removal of Facilities.

- (a) Within 90 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 Small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine 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.
- (b) The owner of a Small WCF in the ROW shall, at its own expense, remove such Small WCF and associated equipment, including the utility pole and any support structures if the Applicant's wireless facilities and equipment are the only facilities on the utility pole or support structure, as follows:
- [1] Within 60 days of suspension or revocation of a permit due to noncompliance with this Chapter, PA Act 50, or other applicable codes, following written notice from the Township and failure to cure any noncompliance.
 - [2] Within 90 days of the end of the permit term or an extension of the permit term.
- (15) Damage and Repair. A wireless provider shall repair all damage to the ROW or any other land so disturbed in accordance with PA Act 50, the Small Wireless Facilities Deployment Act.
- (16) Insurance. Each Person that owns or operates a Small WCF shall provide the Township Building Code Official with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Small WCF.
- (17) Indemnification. Each Person that owns or operates a Small WCF 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 the Small WCF. Each Person that owns or operates a Small WCF 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 Small WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, settlements, losses, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (18) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. 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 owner of each Small WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission and Pennsylvania Small Wireless Facilities Deployment Act, as may be amended.