

**EAST NORRITON TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 589**

**AN ORDINANCE OF EAST NORRITON TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING PART II, GENERAL LEGISLATION, CHAPTER 205 (ZONING), ARTICLE XXIX (WIRELESS COMMUNICATIONS FACILITIES), SECTIONS 205-188; 205-189; 205-190; 205-191; 205-192 AND 205-194 TO THE EAST NORRITON TOWNSHIP CODE OF ORDINANCES TO UPDATE AND AMEND THE TOWNSHIP’S REGULATION OF WIRELESS COMMUNICATIONS FACILITIES IN LIGHT OF CHANGES TO GOVERNING FEDERAL AND COMMONWEALTH ORDERS AND STATUTES; REPEALING ALL INCONSISTENT ORDINANCES, OR PARTS THEREOF IN CONFLICT THEREWITH; AND PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS**, East Norriton Township (the “Township”) is a duly organized Township operating in accordance with the Pennsylvania Second Class Township Code (the “Code”); and

**WHEREAS**, the Second-Class Township Code and the Pennsylvania Municipalities Planning Code empowers the Board of Supervisors of East Norriton Township to enact zoning ordinances and amendments governing land use in the Township, and to make such regulations as deemed necessary and appropriate relating to the public health, safety, cleanliness, convenience, comfort and general welfare of the citizens of the Township; and

**WHEREAS**, subsequent to the adoption of Article XXIX, “Wireless Communications Facilities”, of the Township Zoning Ordinance various rulings and declaratory orders of the Federal Communications Commission, as well as various statutory amendments of the Pennsylvania Legislature, have been adopted which have altered the powers afforded to the Township to regulate the siting, erection and use of Tower-Based, Non-Tower Based and “Small Cell” Wireless Communication Facilities via the Township’s Zoning Ordinance; and

**WHEREAS**, in order to bring the Township Zoning Ordinance’s regulation of Wireless Communications Facilities into compliance with the current Federal and State law governing the same, the Board of Supervisors hereby deems necessary and appropriate to amend Chapter 205, Article XXIX “Wireless Communications Facilities” of the Township Zoning Ordinance for the public health, safety, cleanliness, convenience, comfort and general welfare of the citizens of the Township; and

**NOW, THEREFORE**, be it, and it is hereby **ORDAINED** by the East Norriton Township Board of Supervisors, and it is hereby **ENACTED** and **ORDAINED** by authority of same that Chapter 205, Article XXIX of the East Norriton Township Code of Ordinances is amended as follows:

**SECTION I: Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-188 (Definitions) is hereby amended to alter the existing definitions of “Non-Tower Wireless Communications Facility (Non-Tower WCF)” and “Tower-Based Wireless Communications Facility (Tower-Based WCF)” and to add definitions for “Small Wireless Facility” and “Utility Pole”; which shall read as follows:

**§ 205-188 Definitions.**

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)**

All non-tower wireless communications facilities, including, but not limited to, antennas and related equipment, and those involving replacement of existing Township or third-party utility structures, provided that the original function of the utility structure continues to be served following replacement. Non-tower WCFs shall not include support structures for antennas and related equipment.

**SMALL WIRELESS FACILITY**

A Wireless Communications Facility that meets each of the following conditions:

- a. The structure on which antenna facilities are mounted:
  - i. Is 50 feet or less in height; or
  - ii. Is no more than 10 percent taller than other adjacent structures; or
  - iii. Is not extended to a height of more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
- b. Each antenna (excluding associated antenna equipment) are cumulatively 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; and
- d. The facility does not require antenna structure registration under 47 CFR Part 17.
- e. The facility is not located on Tribal lands, as defined under 36 CFR § 800.16(x); and
- f. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR § 1.1307(b).

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)**

Any structure that is initially constructed for the primary purpose of supporting one or more antennas, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and utility poles and light poles. DAS hub facilities are considered to be Tower-Based WCFs.

**UTILITY POLE**

An existing or replacement pole or similar structure that is used in whole or in part to carry or to provide lateral support to electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting or support for traffic-control devices. Such term shall not include structures supporting only wireless facilities.

**SECTION II. Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-189 (General Requirements for all tower-based wireless communications facilities) is hereby amended to remove subsections A. (14) Timing of Approval and A. (17) Permit Fees in their entirety and are to be replaced with the following:

**A. The following regulations shall apply to all tower-based wireless communications facilities:**

**(14) Review of Applications.**

a. General. Except as provided in subsection (b), within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the 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 Township shall advise the applicant, in writing, of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the one-hundred-fifty-day review period.

b. Small Wireless Facility. Where a tower-based WCF is designed as a small wireless facility, within 10 calendar days of receiving the application, the Township will determine and notify the applicant whether the application is complete. If the application is incomplete, the Township shall identify the missing documents or information and shall cite to the applicable rule or regulation in support. The times set forth in subsection (c) shall restart at zero on the date which the applicant submits all the documents and information identified by the Township to make the application complete. If the applicant's supplemental submission fails to make the application complete, and the Township notifies the applicant within 10 days of the supplemental submission and identifies the missing documents or information, the applicable times set forth in subsection (c) shall be tolled until the applicant provides the missing documents and information. The time shall restart on the date when the applicant submits all the documents and information identified by the Township to render the application complete.

c. Timing. All applications shall be processed on a nondiscriminatory basis, and the Township shall approve or deny an application within 90 days for applications to construct a small wireless facility using a new structure. An applicant and the Township may enter into a written agreement to toll the time periods set forth herein.

**(17) 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. For applications involving tower-based WCFs designed as small cell facilities, the applicant shall pay a fee of \$1,000 for each new associated pole used with the small wireless facility.

**SECTION III. Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-190 (Tower-based facilities outside the rights-

of-way) is hereby amended to remove subsection A. (1)(b) Gap in coverage in its entirety, and is to be replaced with the following:

**A. The following regulations shall apply to tower-based wireless communications facilities located outside the rights-of-way:**

**(1) Development regulations:**

**(b) Gap in coverage.** An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage or capacity exists with respect its network in the applicable area and that the type of WCF being proposed is the least-intrusive means by which to fill that gap. The existence or nonexistence of a gap shall be a factor in the Township's decision on an application for approval of tower-based WCFs.

**SECTION IV. Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-191 (Tower-based facilities in the rights-of-way) is hereby amended to remove subsections A. (1) Prohibited in Residential Zones, A. (2) Gap in Coverage and A. (11) Compensation for ROW Use in their entirety and are to be replaced with the following:

**A. The following regulations shall apply to tower-based wireless communications facilities located in the rights-of-way:**

**(1) Restrictions as to Placement.** Unless designed as a small wireless facility, tower-based WCFs are only permitted in such districts as specified in Articles XI, XV, XVI and XXVI of this chapter, provided they are not within 500 feet of a lot in a residential use or a residential district boundary. If designed as a small wireless facility, a tower-based WCF is permitted within a residential zone or within 500 feet of a lot in residential use or a residential district boundary if proposed on a utility pole and located within 100 feet of above-ground utility lines.

**(2) Gap in coverage.** An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage or capacity exists with respect to its network in the applicable area and that the type of WCF being proposed is the least-intrusive means by which to fill that gap. The existence or nonexistence of a gap shall be a factor in the Township's decision on an application for approval of tower-based WCFs in the ROW.

**(11) Compensation for ROW use.** In addition to permit fees as described in § 205-192 of this article, every tower-based WCF 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. 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 tower-based 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. The annual ROW management fee for tower-based WCFs shall be determined by the Township and authorized by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW management costs as applied

to such tower-based WCF. In default of an actual cost study completed by the Township, the presumptively reasonable fees shall be as established by law.

## **SECTION V. Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-192 (General requirements for all non-tower wireless communications facilities) is hereby amended to remove subsections A. (9) Timing of Approval, A. (10) Permit Fees in their entirety and are to be replaced with the following:

**A. The following regulations shall apply to all non-tower wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached:**

### **(9) Review of Applications.**

a. General. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant, in writing, of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period.

b. Small Wireless Facility. Where a non-tower based WCF is designed as a small wireless facility, within 10 calendar days of receiving the application, the Township will determine and notify the applicant whether the application is complete. If the application is incomplete, the Township shall identify the missing documents or information and shall cite to the applicable rule or regulation in support. The times set forth in subsection (c) shall restart at zero on the date which the applicant submits all the documents and information identified by the Township to make the application complete. If the applicant's supplemental submission fails to make the application complete, and the Township notifies the applicant within 10 days of the supplemental submission and identifies the missing documents or information, the applicable times set forth in subsection (c) shall be tolled until the applicant provides the missing documents and information. The time shall restart on the date when the applicant submits all the documents and information identified by the Township to render the application complete.

c. Timing. All applications shall be processed on a nondiscriminatory basis, and the Township shall approve or deny an application within 60 days for applications to collocate a small wireless facility using an existing structure. An applicant and the Township may enter into a written agreement to toll the time periods set forth herein.

**(10) 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 or \$1,000, whichever is less. For applications involving non-tower WCFs designed as small cell facilities, the applicant shall pay a fee of \$500 for a single up-front application that includes up to five small wireless facilities, with an additional \$100 for each small wireless facility over five.

**SECTION VI. Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-192 (General requirements for all non-tower wireless communications facilities) is hereby amended to delete subsection B. (14) Permit Fees in its entirety, as the permit provisions relating to Section 205-192 have been addressed in Section 192 A. (10) Permit Fees.

**SECTION VII. Amendment of the Code.**

The East Norriton Township Code of Ordinances, Chapter 205 (Zoning), Article XXIX (Wireless Communications Facilities), Section 205-194 (Non-tower wireless communications facilities in the rights-of-way) is hereby amended to remove subsections A. (1) Authorization and A. (3) Compensation for ROW use in their entirety, and are to be replaced with the following:

**A. The following additional regulations shall apply to all non-tower wireless communications facilities in the rights-of-way:**

**(1) Authorization.** Non-tower WCFs designed as a Small Wireless Facility in the ROW shall be permitted in all zoning districts by-right when co-located on utility poles.

**(3) Compensation for ROW use.** In addition to permit fees as described above, every non-tower WCF 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. 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 its costs incurred in connection with the activities described above. The annual ROW management fee for non-tower WCFs shall be determined by the Township and authorized by resolution of Township Board and shall be based on the Township's actual ROW management costs as applied to such non-tower WCF. In default of an actual cost study completed by the Township, the presumptively reasonable fees shall be as established by law.

**SECTION VIII. Severability.**

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the East Norriton Township Board of Supervisors hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

**SECTION IX. Repealer.**

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.


**SECTION X. Effective Date.**

This Ordinance shall be effective five (5) days after enactment.

**ORDAINED AND ENACTED** by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, this 29th day of June, 2021.

Attest:



  
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Robert H. Hart, Esq., Secretary

**EAST NORRITON TOWNSHIP  
BOARD OF SUPERVISORS**

  
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Ashley DiPiero, Chairwoman