

**TOWNSHIP OF EAST NORRITON
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 550

AN ORDINANCE OF THE TOWNSHIP OF EAST NORRITON, MONTGOMERY COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF EAST NORRITON TOWNSHIP, CODIFIED AS CHAPTER 205 OF THE CODE OF THE TOWNSHIP OF EAST NORRITON, TO ADD NEW ARTICLE XXIX OF CHAPTER 205, "WIRELESS COMMUNICATIONS FACILITIES"; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES AND NON-TOWER WIRELESS COMMUNICATION FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; SAVING CERTAIN PROVISIONS FROM REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of the Township of East Norriton, Montgomery County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I. Short Title.

This Ordinance shall be known as the "East Norriton Township Wireless Communications Facilities Ordinance."

SECTION II. Amendment of Zoning Ordinance

I. Chapter 205 of The Code of the Township of East Norriton, "Zoning," is hereby amended to add new Article XXIX, as follows:

ARTICLE XXIX Wireless Communications Facilities

§ 205-187 Purposes and Findings of Fact

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

B. By enacting this Chapter, the Township intends to:

1. Promote the health, safety and welfare of Township residents and businesses with respect to wireless communications facilities;
2. 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;
3. 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;
4. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable wi-fi and other wireless communications facilities.
5. Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
6. Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
7. Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

§ 205-188 Definitions

Unless otherwise expressly stated, the following terms shall have the meanings indicated:

ANTENNA

Any system of wires, rods, discs, panels, flat panels, dishes, whips , or other similar devices used for the transmission or reception of wireless signals. An Antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include Tower-Based Wireless Communications Facilities defined below.

CO-LOCATION

The mounting of one or more WCFs, including Antennae, on an existing Tower-Based WCF, or utility pole or light pole.

COMMONWEALTH

The Commonwealth of Pennsylvania.

COUNTY

County of Montgomery, Commonwealth of Pennsylvania.

DISTRIBUTED ANTENNA SYSTEMS (DAS)

A network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

EMERGENCY

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

FCC

The Federal Communications Commission.

MONOPOLE

A WCF or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications Antennae and connecting appurtenances.

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

All non-tower wireless communications facilities, including but not limited to, Antennae and related equipment. Non-Tower WCF shall not include support structures for Antennae and related equipment.

PERSONS

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.

RIGHT-OF-WAY or ROW

The surface of and space above and below any real property in the Township in which the Township, County or Commonwealth has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, County or Commonwealth, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than Streets that are owned by the Township, County or Commonwealth. The phrase "in the Right(s)-of-Way" means in, on, over, along, above and/or under the Right(s)-of-Way.

STEALTH TECHNOLOGY

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

SUBSTANTIALLY CHANGE

(1) Any increase in the height of a Wireless Support Structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or (2) any further increase in the height of a Wireless Support Structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

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

Any structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be tower-based WCFs.

TOWNSHIP

East Norriton Township, Montgomery, County, PA.

WIRELESS

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

WIRELESS COMMUNICATIONS FACILITY (WCF)

The Antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)

Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public ROW or other Township owned land or property.

WIRELESS SUPPORT STRUCTURE

A freestanding structure, such as a Tower-Based Wireless Communications Facility or any other support structure that could support the placement or installation of a Wireless Communications Facility if approved by the Township.

§ 205-189 General Requirements for All Tower-Based Wireless Communications

A. The following regulations shall apply to all Tower-Based Wireless Communications Facilities:

1. 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, 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.
2. Wind. Any Tower-Based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI EIA/TIA-222-G, as amended).
3. Height. Any Tower-Based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of one hundred fifty (150) feet, which height shall include all subsequent additions or alterations. All Tower-Based WCF applicants must submit documentation to the Township justifying the total height of the structure.
4. 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.
5. Maintenance. The following maintenance requirements shall apply:
 - a. Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
6. Radio Frequency Emissions. No Tower-Based WCF may, by itself or in conjunction with other WCF's, 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.
7. Historic Buildings or Districts. No Tower-Based WCF may be located on a building or Structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts list maintained by the Township, or that has been designated by the Township as being of historic significance.

8. Identification. All Tower-Based WCF's shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township.
9. Lighting. Tower-Based WCF shall not be artificially lighted, except as required by law and as may be approved by the Township. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
10. Appearance. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.
11. Noise. Tower-Based WCF's shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
12. Aviation Safety. Tower-Based WCF's shall comply with all federal and state laws and regulations concerning aviation safety.
13. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
14. Timing of Approval. Within thirty (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 WCF's shall be acted upon within one hundred-fifty (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 (150) day review period.
15. Non-Conforming Uses. Non-conforming Tower-Based WCF's which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Chapter.
16. Removal. 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 the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
 - a. All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - b. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
 - c. Any unused portions of Tower-Based WCFs, including Antennas, shall be removed within six (6) months of the time of cessation of operations. The Township must approve all replacements of portions of a Tower-Based WCF previously removed.

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.

§ 205-190 Tower-Based Facilities Outside the Rights-of-Way

- A. The following regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Rights-of-Way:
1. Development Regulations:
 - a. Prohibited in Residential Zones. No Tower-Based WCF shall be located in a district zoned residential or within 500 feet of a lot in residential use or a residential district boundary. Tower-Based WCF's are permitted only in such districts as specified in Articles XI, XV, XVI, and XXVI of this Chapter.
 - b. Gap in Coverage. An applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Tower-Based WCF's.
 - c. Sole Use on a Lot. A Tower-Based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
 - d. 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 industrial, commercial, institutional or municipal use, subject to the following conditions:
 - i. The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the communications facility.
 - ii. Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.
 - iii. Minimum Setbacks. The Tower-Based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no Tower-Based WCF shall be located within five hundred (500) feet of a lot in residential use or a residential district boundary.
 - e. Notice. Upon receipt of an application for a Tower-Based WCF, the Township shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 50 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
 - f. Co-Location. An application for a new Tower-Based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a Tower-Based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a two-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.

2. Design Regulations:

- a. The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Township.
- b. Any height extensions to an existing Tower-Based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
- c. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's Antennas and comparable Antennae for future users.

3. Surrounding Environs:

- a. 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.
- b. The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix G: Geotechnical Investigations, ANSI EIA/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.

4. Fence/Screen:

- a. A security fence having a maximum height of six (6) feet shall completely surround any Tower-Based WCF, guy wires, or any building housing WCF equipment.
- b. An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
- c. The WCF applicant shall submit a landscape plan for review and approval by the Township Planning Consultant for all proposed screening.

5. Accessory Equipment:

- a. Ground-mounted equipment associated to, or connected with, a Tower-Based WCF shall be underground. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground mounted equipment shall be screened from public view using Stealth Technologies, as described above.
- b. All 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.

6. Additional Antennae.

As a condition of approval for all Tower-Based WCFs, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate Antennae on Tower-Based WCFs where technically and economically feasible. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Township.

7. 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 ground 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 owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

8. Bond.

Prior to the issuance of a permit, the owner of a Tower-Based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Township Solicitor, in an amount of \$100,000, to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file the bond with the Township.

9. Visual or Land Use Impact.

The Township reserves the right to deny an application for the construction or placement of any Tower-Based WCF based upon visual and/or land use impact.

10. Inspection.

The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Township Code 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.

§ 205-191 Tower-Based Facilities in the Rights-of-Way

A. The following regulations shall apply to Tower-Based Wireless Communications Facilities located in the Rights-of-Way:

1. Prohibited in Residential Zones. No Tower-Based WCF shall be located within a residential zone or within 500 feet of a lot in residential use or a residential district boundary. Tower-Based WCF's are only permitted in such districts as specified in Articles XI, XV, XVI and XXVI of this Chapter.
2. Gap in Coverage. An applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Tower-Based WCF's in the ROW.

3. Notice. Upon receipt of an application for a Tower-Based WCF, the Township shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the property or parcel of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
4. Co-location. An application for a new Tower-Based WCF in the ROW shall not be approved unless the Township finds that the proposed wireless communications equipment cannot be accommodated on an, existing structure, such as a utility pole or traffic light pole. Any application for approval of a Tower-Based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a one mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
5. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCF's in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
6. Equipment Location. Tower-Based WCF's 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. In addition:
 - a. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb;
 - b. Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - d. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
 - e. Any underground vaults related to Tower-Based WCF's shall be reviewed and approved by the Township.
7. Design Regulations.
 - a. The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Township.
 - b. Any height extensions to an existing Tower-Based WCF shall require prior approval of the Township, and shall not increase the overall height of the Tower- Based WCF to more than one hundred fifty (150) feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.

- c. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's Antennas and comparable Antennae for future users.
8. Visual or Land Use Impact. The Township reserves the right to deny the construction or placement of any Tower-Based WCF in the ROW based upon visual and/or land use impact.
9. Additional Antennae. As a condition of approval for all Tower-Based WCFs in the ROW, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate Antennae on Tower-Based WCFs where technically and economically feasible. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Township.
10. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of Tower-Based 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 determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - a. The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
 - b. The operations of the Township or other governmental entity in the Right-of-Way;
 - c. Vacation of a street or road or the release of a utility easement; or
 - d. An Emergency as determined by the Township.
11. Compensation for ROW Use. In addition to permit fees as described in Section 205-192 of this Chapter, 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 WCF's shall be determined by the Township and authorized by resolution of Township Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such Tower-Based WCF.
12. Bond. Prior to the issuance of a permit, the owner of a Tower-Based WCF in the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in an amount of \$100,000, to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.

§ 205-192 General Requirements for All Non-Tower Wireless Communications Facilities

- 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:

1. Permitted in All Zones Subject to Regulations. Non-Tower WCF's are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
2. Notice. Upon receipt of an application for any Non-Tower-Based WCF, the Township shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
3. 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, and National Electrical Code. 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.
4. Wind. Any Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association. (ANSI E1N/TIA-222-G, as amended).
5. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
6. Aviation Safety. Non-Tower WCF's shall comply with all federal and state laws and regulations concerning aviation safety.
7. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCF's, 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.
8. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
 - a. All abandoned or unused WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - b. If the WCF or accessory facility is not removed within three (3) months 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.
9. Timing of Approval. Within thirty (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 ninety (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 (90) day review period.

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.
- B. The following regulations shall apply to all Non-Tower Wireless Communications Facilities that Substantially Change the Wireless Support Structure to which they are attached:
1. Permitted in All Zones Subject to Regulations. Non-Tower WCF's are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
 2. Notice. Upon receipt of an application for any Non-Tower-Based WCF, the Township shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
 3. 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, and National Electrical Code. 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.
 4. Wind. Any Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
 5. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
 6. Historic Buildings. Non-Tower WCFs may not be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts lists maintained by the Township, or has been designated by the Township as being of historic significance.
 7. Aviation Safety. Non-Tower WCF's shall comply with all federal and state laws and regulations concerning aviation safety.
 8. Maintenance. The following maintenance requirements shall apply:
 - a. The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

9. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCF's, 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. Removal. In the event that use of a Non-Tower WCV is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
 - a. All abandoned or unused WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - b. If the WCF or accessory facility is not removed within three (3) months 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.
11. Timing of Approval. Within thirty (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 ninety (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 (90) day review period.
12. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
13. Bond. Prior to the issuance of a permit, the owner of each individual Non-Tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in all amount of \$25,000, for each individual Non-Tower WCF, to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.
14. 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.

§ 205-193 Non-Tower Wireless Communications Facilities Outside the Rights-of-Way

- A. The following additional regulations shall apply to Non-Tower Wireless Communications Facilities located outside the Rights-of-Way that Substantially Change the Wireless Support Structure to which they are attached:
 1. Development Regulations. Non-Tower WCFs shall be co-located on existing structures such as existing buildings or Tower-Based WCFs subject to the following conditions:
 - a. Such WCF does not exceed a maximum height of one hundred fifty (150) feet.

- b. If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district
- c. A six (6) foot high security fence 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.

2. Design Regulations.

- a. Non-Tower WCFs shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Township.
- b. Non-Tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use permit.
- c. All Non-Tower WCF applicants must submit documentation to the Township justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- d. Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
- e. Non-Commercial Usage Exemption. The design regulations enumerated in this Section IX.2 shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.

3. Removal, Replacement, Modification.

- a. The removal and replacement of Non-Tower WCFs 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 the numbers of Antennae.
- b. Any material modification to a wireless telecommunication facility shall require a prior amendment to the original permit or authorization.

4. Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any Non-Tower WCF based upon visual and/or land use impact.

5. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Township Code 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.

§ 205-194 Non-Tower Wireless Communications Facilities in the Rights-of-Way

- A. The following additional regulations shall apply to all Non-Tower Wireless Communications Facilities located in the Rights-of-Way:
1. Co-location. Non-Tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles or light poles.
 2. Design Requirements:
 - a. 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.
 - b. Antennae and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
 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 WCF'S 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.
 4. 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's in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
 5. Equipment Location. Non-Tower WCF's 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. In addition:
 - a. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - b. Ground-mounted equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground-mounted equipment cannot be undergrounded, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.

- c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - d. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
 - e. Any underground vaults related to Non-Tower WCF's shall be reviewed and approved by the Township.
6. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary, or such shorter period in the case of an Emergency, an owner of a 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:
- a. The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
 - b. The operations of the Township or other governmental entity in the Right-of-Way;
 - c. Vacation of a street or road or the release of a utility easement; or
 - d. An Emergency as determined by the Township.
7. Visual or Land Use Impact. The Township retains the right to deny an application for the construction or placement of a Non-Tower WCF based upon visual and/or land use impact.

§ 205-195 Violations Applicable to All Wireless Facilities

- A. Penalties. Any Person violating any provision of this Chapter shall be subject, upon finding by a magisterial district judge, to a penalty not exceeding five hundred dollars (\$500), for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Chapter and any other remedy at law or in equity, the Township may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Chapter.
 - B. Determination of Violation. In the event a determination is made that a Person has violated any provision of this Chapter, such Person shall be provided written notice of the determination and the reasons therefor. Except in the case of an Emergency, the Person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided the Person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this Chapter and/or federal and/or Pennsylvania law and regulations.
- II. The following provisions of Chapter 205, Zoning, of the Code are amended as indicated below:
- A. Section 205-5, Definitions, is amended as follows:
 - 1. The definition of "Public/Private Utility Facility" is amended to delete the term "communications".
 - 2. The definition of "Public Utilities Facility" is amended to add the following to the end

of the definition: "This definition shall not include wireless telecommunications facilities, as defined in Article XXIX of this Chapter."

B. Article XI, "IN Institutional District", Section 205-56, "Permitted uses," is amended to add new subsection "L", to read as follows: "Wireless telecommunications facilities, subject to Article XXIX of this Chapter."

C. Article XIIA, "EC Executive Campus District", Section 205-63.3, "Permitted uses," subsection A.(4), is amended to read as follows: "Communications broadcasting studios and offices."

D. Article XV, "I Industrial District", Section 205-72, "Permitted uses," is amended to amend subsection B.(2) to read as follows: "Broadcasting stations, studios and transmitting facilities"; and to add new subsection A.(7), as follows: "Wireless telecommunications facilities, subject to Article XXIX of this Chapter."

E. Article XVI, "LI Limited Industrial District", Section 205-87, "Permitted uses," is amended to add new subsection M, as follows: "M. Wireless telecommunications facilities, subject to Article XXIX of this Chapter."

F. Article XVI, "LI Limited Industrial District", Section 205-88, "Prohibited uses," is amended to revise subsection D. to read as follows: "Broadcasting stations, antennas or towers."

SECTION III. Miscellaneous

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

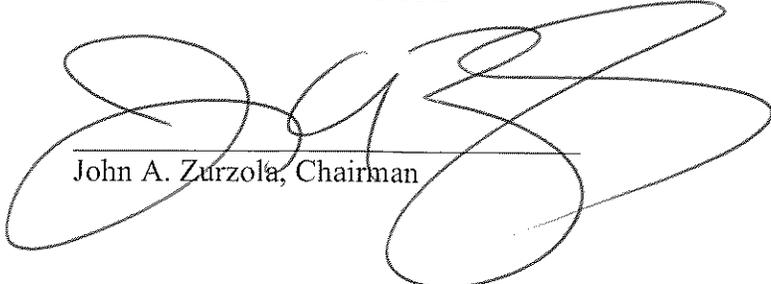
Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.

Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of East Norriton Township.

DULY ORDAINED and ENACTED by the Board of Supervisors of the Township of East Norriton this 25th day of February, 2014.



EAST NORRITON TOWNSHIP
BOARD OF SUPERVISORS



John A. Zurzola, Chairman

ATTEST:



Donald D. Delamater, Secretary
{Client Files/009217/00000/00536691.DOC:2}