

**TOWNSHIP OF RADNOR
DELAWARE COUNTY, PENNSYLVANIA
ORDINANCE NO. 2021-10**

AN ORDINANCE OF THE TOWNSHIP OF RADNOR, DELAWARE COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF ARTICLE XXVIII OF THE ZONING ORDINANCE OF THE TOWNSHIP OF RADNOR; PROVIDING FOR PURPOSES RELATED TO THE ADOPTION OF THE AMENDMENTS; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES, NON-TOWER WIRELESS COMMUNICATIONS FACILITIES, AND SMALL WIRELESS COMMUNICATIONS 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; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby ORDAINED by the Board of Commissioners of the Township of Radnor, Delaware County, Commonwealth of Pennsylvania, and it is hereby ENACTED and ORDAINED by authority of same as follows:

SECTION I. AMENDMENT OF WIRELESS COMMUNICATIONS FACILITIES PROVISIONS

Article XXVIII of the Radnor Township Zoning Ordinance is hereby repealed in its entirety and replaced with a new Article XXVIII entitled and provided for as follows:

Article XXVIII: *Wireless Communications Facilities*

§280-161 Intent.

The intent of this article is to:

- A. 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.
- B. Accommodate the need for *Wireless Communications Facilities* while regulating their location and number so as to ensure the provision of necessary services.

- C. Establish procedures for the design, siting, construction, installation, maintenance and removal of *Non-Tower Wireless Communications Facilities*, small *Wireless Communications Facilities*, and *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 *Wireless Communications Facilities* on existing infrastructure.
- F. Promote the health, safety and welfare of the Township's residents.

§280-162 Applicability.

- A. Unless expressly stated herein, wireless communications facilities for which a permit has been issued prior to the effective date of this article shall not be required to meet the minimum requirements of this article.
- B. This article shall not govern the installation of any amateur radio facility that is owned by a federally licensed amateur radio station operator or that is used exclusively for receive-only *Antennas*.
- C. This article shall supersede all conflicting requirements of other codes and ordinances regarding the location and permitting of *Wireless Communications Facilities*.

§280-163 Definitions.

As used in this article, the following terms shall have the meanings indicated:

- A. *Accessory Equipment*—any equipment serving or being used in conjunction with a *Wireless Communications Facility* or *Wireless Support Structure*, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- B. *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.

- C. *Collocation*—the mounting of one or more *WCFs*, including *Antennas*, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a *WCF* on that structure.
- D. *Equipment Compound*—an area surrounding or adjacent to a *Wireless Support Structure* within which base stations, power supplies, or *Accessory Equipment* are located.
- E. *FCC*—Federal Communications Commission.
- F. *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*.
- G. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—*Wireless Communications Facilities* that are *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.
- H. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* -- 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*.
- I. *Small Wireless Communications Facility* – a *Wireless Communications Facility* that meets the following criteria:
 - (1) The *Wireless Support 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 50 feet or by more than 10 percent above its height prior to the *Collocation* of any *WCF* as a result of the *Collocation* of new *Antenna* facilities; and
 - (2) Each *Antenna* associated with the deployment (excluding the *Accessory Equipment*) is no more than three cubic feet in volume; and

- (3) All *Accessory Equipment* associated with the *Wireless Support Structure* including the wireless equipment associated with the *Antenna* and any pre-existing associated equipment on the *Wireless Support Structure*, is cumulatively no more than 28 cubic feet in volume.
- (4) The *Wireless Communications Facility* does not require *Antenna* structure registration under 47 CFR Part 17;
- (5) The *Wireless Communications Facility* is not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- (6) The *Wireless Communications Facility* does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).
- J. *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 *Antennas*, building-mounted *Antennas* painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
- K. *Substantial Change* – A modification substantially changes the physical dimensions of an support structure if it meets the criteria established by 47 CFR §1.6100.
- L. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—any structure that is used for the primary purpose of supporting one or more *Antennas*, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying *Antenna* and *Accessory Equipment*.
- M. *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)
- N. *Wireless Communications Facility (WCF)*— an *Antenna* facility or a *Wireless Support Structure* that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- O. *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 ROW or other Township-owned or third-party land or property.
- P. *Wireless Support Structure*—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).

§280-164 **General Requirements for All *Wireless Communications Facilities*.**

A. Standard of care.

- (1) All *WCFs* shall meet or exceed all applicable standards and provisions of the FAA, the *FCC* and any other agency of the state or federal government with the authority to regulate *Wireless Communications Facilities*, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the *WCF Applicant* and provided to the Township.
- (2) If such standards or regulations are changed, the owner of the *WCF* shall bring such *WCF* into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the *WCF* at the owner's expense.
- (3) The *WCF Applicant* shall submit proof of compliance with all applicable federal and state standards, including but not limited to those established by the Federal Communications Commission, as part of any complete *WCF* application.

B. Engineer signature. All plans and drawings included in an application for a *WCF* shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state and federal laws and regulations applicable to the proposed *WCF*.

C. Eligible Facilities Requests.

- (1) *WCF Applicants* proposing a *Modification* to an existing *WCF* shall be required only to obtain permits of general applicability from the Township. In order to be considered for such permits, the *WCF Applicant* must submit permit applications to the Township in accordance with the requirements of the Township Code. Such permit applications shall clearly state that the proposed *Modification* constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit applications shall detail all dimensional changes being made to the *WCF* and *Wireless Support Structure*.
- (2) Timing of Approval.
 - (a) Within thirty (30) calendar days of receipt of an application for the *Modification* of an existing *WCF*, the Township Zoning Officer shall notify

the *WCF Applicant* in writing of any information that may be required to complete such application.

- (b) Within sixty (60) days of receipt of a complete and compliant application for the *Modification* of an existing *WCF*, the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.
- D. Wind and ice. All *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.
- E. Non-conforming *Wireless Support Structures*. *WCFs* shall be permitted to *Collocate* upon existing non-conforming *Wireless Support Structures*. *Collocation* of *WCFs* upon existing *Wireless Support Structures* is encouraged even if the existing *Wireless Support Structure* is non-conforming as to use within a zoning district.
- F. Signs. All existing and new *WCFs* shall post a sign in a readily visible location on each major equipment component identifying the name and phone number of a party to contact in the event of an Emergency as well as the name and contact information of all wireless providers utilizing the *WCF*. The size and design of such signage shall be approved by the Township. The only other signage permitted on the *WCF* shall be those required by the *FCC*, or any other federal or state agency. No advertising may be permitted on any *WCF*. Owners of existing *WCFs* shall post signage in compliance with this requirement on such existing *WCFs* within ninety (90) days of notice by the Township.
- G. Inspections; reports. Inspection reports shall be submitted to the Township by the owner of a *WCF* upon request to ensure structural integrity and compliance with applicable federal, state and local codes and regulations.
- H. Notice. Within ten (10) days of submission of an application for a *WCF*, the *WCF Applicant* shall mail notice to all owners of property within 500 feet of the proposed *WCF*. The *WCF Applicant* shall provide proof of the notification to the Township.
- I. 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 *WCF*, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.

- J. Performance Bond. The owner of a *WCF* shall obtain a performance bond in an amount sufficient to guarantee removal of the *WCF*. Evidence of such performance bond shall be provided to the Township as part of a complete *WCF* application.
- K. Indemnification. Each person that owns or operates a *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 *WCF*. Each person that owns or operates a *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 a *WCF*. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- L. Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and *Antennas* for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Article XXVIII.
- M. Historic Buildings. No *WCFs* may be located within one hundred (100) feet of any property, building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed under the Pennsylvania Historic District Act or Municipalities Planning Code, located within a historic district, or is included in the official historic structures list maintained by the Township.
- N. Change in Ownership. If ownership of a *WCF* is transferred to a party other than the party designated as the owner on the application for the *WCF*, notice detailing the change in ownership shall be provided to the Township within thirty (30) days of such change in ownership.
- O. Abandonment; Removal. In the event that use of a *WCF* and/or its dedicated *Accessory Equipment* is 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. A *WCF* and/or dedicated *Accessory Equipment* not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned *WCFs*, or portions of *WCFs*, shall be removed as follows:

- (1) All abandoned or unused *WCFs* and *Accessory Equipment* shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the *WCF* has been deemed abandoned by the Township, unless a time extension is approved by the Township.
- (2) If the *WCF* or *Accessory Equipment* is not removed within ninety (90) 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* regardless of the owner's or operator's intent to operate the *WCF* in the future.
- (3) The Township reserves the right to pursue all available remedies under the law to ensure removal of the *WCF* and restoration of the site at the expense of the owner. Any delay by the Township in taking action shall not invalidate the Township's right to take action.
- (4) Where there are two or more users of a single *WCF*, this provision shall not become effective until all users have terminated use of the *WCF* for a period of twelve (12) months.

P. Maintenance. The following maintenance requirements shall apply:

- (1) All *WCFs* 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 by the owner of the *WCF* to ensure the upkeep of the *WCF* in order to promote the safety and security of the Township's residents and in accordance with all applicable Township, state and federal regulations
- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents. Maintenance logs will be provided to the Township upon request.

Q. Timing of Approval. The following table details the applicable timeframe of approval for each type of *WCF* application:

Type of <i>WCF</i> /Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from

		receipt of initial application.
<i>Small WCF (Collocated)</i>	10 business days from receipt of initial or supplemental application.	60 total calendar days from receipt of initial application.
<i>Small WCF (New or Replacement Wireless Support Structure)</i>	10 business days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.
<i>Non-Tower WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 total calendar days from receipt of initial application.
<i>Tower-Based WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 total calendar days from receipt of initial application.

§280-165 Specific Requirements for *Non-Tower Wireless Communications Facilities*.

- A. The following regulations shall apply to all *Non-Tower WCFs* that do not meet the definition of a *Small WCF*:
- (1) All *Non-Tower WCFs* shall be subject to the approval of the Township Design Review Board.
 - (2) Permitted in Certain Districts. *Non-Tower WCFs* shall be permitted outside the public rights-of-way as a secondary use in the following zoning districts:
 - (a) R-5 Residential
 - (b) C-2 General Commercial
 - (c) C-3 Service Commercial
 - (d) PB Planned Business

- (e) PLO Planned Laboratory Office
- (f) PI Planned Industrial

(3) Application procedures.

- (a) Applications for *Non-Tower WCFs* shall be submitted to the Township Zoning Officer. The Township Zoning Officer shall provide all applications for *Non-Tower WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.
- (b) All applications for *Non-Tower WCFs* shall include the following information:
 - [i] The name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Non-Tower WCF*.
 - [ii] A site plan, drawn to scale, showing property boundaries, power location, total height of the *Non-Tower WCF*, the entirety of the structure upon which the *Non-Tower WCF* will be *Collocated*, and *Accessory Equipment* locations.
 - [iii] A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the *Non-Tower WCF*.
 - [iv] If the *Non-Tower WCF* is proposed for location on a *Wireless Support Structure* that currently supports existing *WCFs* or other attachments, the depiction shall show the location and dimensions of all such attachments.
 - [v] The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the *Non-Tower WCF*.
 - [vi] An aerial photograph of the proposed site showing the area within 500 feet of the *Non-Tower WCF*. The aerial photograph shall identify all structures within such radius.
 - [vii] Photo simulations depicting the *Non-Tower WCF* from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the *Non-Tower WCF*.

[viii] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed *Non-Tower WCF* and *Wireless Support Structure* are structurally sound and shall not endanger public health and safety.

[ix] A report by a qualified engineering expert which shows that the *Non-Tower WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

[x] A certificate of insurance as required by Section 280-165A(9).

[xi] Certification of the application's compliance with all requirements of this Section 280-165.

[xii] All application fees required by the Township as detailed in the Township fee schedule.

(4) Development Regulations.

- (a) The total height of any *Non-Tower WCF* shall not exceed fifteen (15) feet above the height of the *Wireless Support Structure* prior to the *Collocation* of any *WCFs*.
- (b) No more than three (3) *Non-Tower WCFs* shall be permitted on any single *Wireless Support Structure* for purposes of mitigating aesthetic impact. The Township may waive this requirement in its sole discretion.
- (c) In accordance with industry standards, all *Non-Tower WCF* applicants must submit documentation to the Township showing that the proposed *Non-Tower WCF* is designed to be the minimum height technically feasible and justifying the total height of the *Non-Tower WCF*.
- (d) 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.
- (e) A security fence not to exceed eight (8) feet in height shall surround any separate communications equipment building if such communications equipment building is located at ground level. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(5) Design.

- (a) In order to assist in evaluating the visual impact, the *WCF Applicant* shall provide color photo simulations showing the proposed site of the *Non-*

Tower WCF with a photo-realistic representation of the proposed *WCF* as it would appear viewed from the closest residential property, adjacent roads and from other locations as required by the Township.

- (b) *Non-Tower WCFs and Accessory Equipment* 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) *Non-Tower WCFs and Accessory Equipment* shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.
 - (d) *Non-Tower WCFs and Accessory Equipment* must be of a neutral color that is identical to or closely compatible with the *Wireless Support Structure* so as to make the *WCF and Accessory Equipment* as visually unobtrusive as possible. Roof-mounted *Non-Tower WCFs* shall match existing air-conditioning units, stairs, elevator towers or other background as nearly as possible.
- (6) Prohibited on Certain Structures. No *Non-Tower WCF* shall be located on single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any residential accessory structure.
- (7) Third Party *Wireless Support Structures*. Where the *Non-Tower WCF* is proposed for *Collocation* on a *Wireless Support Structure* that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present documentation to the Zoning Officer that the owner of the *Wireless Support Structure* has authorized *Collocation* of the proposed *Non-Tower WCF*.
- (8) 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* at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these *WCF* provisions. The *WCF* 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. At the sole discretion of the Township Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (9) 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*.

(10) *Substantial Change*. Any *Substantial Change* to a *WCF* shall require notice to be provided to the Township Zoning Officer, and possible supplemental permit approval as determined by the Township Zoning Officer in accordance with the Township Code.

(11) Timing of Approval.

(a) Within thirty (30) calendar days of the date that an application for a *Non-Tower WCF* is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.

(b) Within ninety (90) days of receipt of a complete application for a *Non-Tower WCF*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.

§280-166 *General and Specific Requirements for Tower-Based Wireless Communications Facilities.*

A. The following regulations shall apply to all *Tower-Based Wireless Communications Facilities* that do not meet the definition of a *Small WCF*.

(1) *Tower-Based WCFs* are permitted outside the public rights-of-way in the following zoning districts as a special exception, subject to the requirements of this Chapter:

- (a) AC Agricultural Conservation
- (b) PLO Planned Laboratory Office
- (c) PLU Public Land Use

(2) The Township shall provide all applications for *Tower-Based WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.

(3) *Special Exception Required*. *Tower-Based WCFs* are permitted outside the public rights-of-way as a 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 Section 280-166.

(a) Prior to the Zoning Hearing Boards' 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 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.

- (b) The special exception application shall include the name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Tower-Based WCF*.
- (c) 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.
- (d) The special exception application shall include aerial photographs of the area within a 500' radius of the proposed *Tower-Based WCF* and identify all existing *WCFs* in that area.
- (e) 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.
- (f) The special exception application shall include evidence that a significant gap in wireless coverage or capacity exists 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 Zoning Hearing Board's decision on an application for approval of *Tower-Based WCF*.
- (g) Where the *Tower-Based WCF* is located on a property that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present evidence to the Zoning Hearing Board 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.
- (h) The special exception application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania 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.

- (i) An application for a new *Tower-Based WCF* shall demonstrate that the proposed *Tower-Based WCF* cannot be accommodated on an existing *Wireless Support Structure*. Zoning Hearing Board 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 *Wireless Support Structure*. The *WCF Applicant* shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one (1) 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:

[i] No existing support structure, building or other structure are located within the geographic area which meet the applicant's engineering requirements.

[ii] Existing support structures, buildings or other structures are not of sufficient height to meet the applicant's engineering requirements.

[iii] Existing support structures, buildings or other structures do not have the strength to support the applicant's equipment.

[iv] The applicant's equipment would cause electromagnetic interference with equipment on the existing support structure, building or other structure.

[v] Fees, costs or contractual provisions required by the owner in order to share an existing location or to adapt for the applicant are unreasonable. Costs exceeding new construction for a support structure are presumed to be unreasonable.

[vi] The applicant demonstrates that there are other limiting factors that render other locations unsuitable.

[vii] The applicant demonstrates that an alternative technology that does not require the use of a support structure, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is not suitable. Costs of alternative technology that exceed costs for the construction of a *Wireless Support Structure* and *Antenna* development shall not be presumed to render the technology unsuitable.

- (j) The special exception application shall include a report by a qualified engineering expert which shows that the *Tower-Based WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
- (k) The special exception application shall also be accompanied by documentation demonstrating that the proposed *Tower-Based WCF* complies with all applicable provisions of this Article XXVIII.

(4) Development Regulations.

- (a) *Tower-Based WCFs* shall not be located in, or within one hundred (100) feet of an area in which all utilities are located underground.
- (b) In no case shall a *Tower-Based WCF* be located within 200 feet of any adjacent residential zoning district or property used for residential purposes.
- (c) 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, 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 *WCF*.
 - [ii] 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 *Accessory Equipment*, any guy wires, the equipment building, security fence, and applicable screening.

(5) Design Regulations.

- (a) Height. Any *Tower-Based WCF* shall be designed at the minimum functional height. The maximum total height of a *Tower-Based WCF* which is not located in the public ROW shall not exceed 120 feet, as measured vertically from the ground level to the highest point on the *Tower-Based WCF*, including *Antennas* and subsequent alterations.
- (b) Visual Appearance and Land Use Compatibility.
 - [i] *Tower-Based WCFs* shall employ *Stealth Technology* which may include the *Wireless Support Structure* being painted a certain color as approved by Zoning Hearing Board or utilizing a galvanized finish.

[ii] All *Tower-Based WCFs* 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.

[iii] 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.

- (c) Anti-Climbing Device. If deemed necessary by the Zoning Hearing Board, a *Tower-Based WCF* shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (d) 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 75% of the proposed *WCF* structure's height or the applicable principal building setback, whichever is greater, unless the *Applicant* shows to the satisfaction of 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.

(6) 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 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.

(7) Fence/Screen.

- (a) A security fence having a height not to exceed eight (8) feet shall completely surround any *Tower-Based WCF* located outside the Public Rights-of-Way, as well as *Accessory Equipment*, guy wires, or any building housing *Accessory Equipment*.

- (b) Landscaping shall be required to screen as much of a newly constructed *Tower-Based WCF* as possible. Zoning Hearing Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of Zoning Hearing Board, they achieve the same degree of screening.
- (8) *Accessory Equipment*.
- (a) *Accessory Equipment* shall not intrude into the minimum setback requirements for the district in which the wireless communication facility is located or exceed a maximum height of 15 feet.
 - (b) Ground-mounted *Accessory Equipment* associated or connected with a *Tower-Based WCF* shall not be located within two hundred (200) feet of a lot in residential use.
 - (c) *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 be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding buildings, structures or landscape.
 - (d) Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing *Antenna* space on the *Tower-Based WCF*.
- (9) *Additional Antennas*. As a condition of approval for all *Tower-Based WCFs*, the *WCF Applicant* shall provide the Zoning Hearing Board with a written commitment that it will allow other service providers to *Collocate Antennas* on the *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 *Antennas* without complying with the applicable requirements of this Article XXVIII.
- (10) *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.
- (11) *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.

- (12) Storage. The storage of unused equipment, materials or supplies is prohibited on any *Tower-Based WCF* site.
- (13) Repair of Non-Conforming *Tower-Based WCF*. Non-conforming *Tower-Based WCFs* 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 section. The *Collocation of Antennas* is permitted on non-conforming structures.
- (14) 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* at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these *WCF* provisions. The *WCF* 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. At the sole discretion of the Township Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (15) Insurance. Each person that owns or operates a *Tower-Based WCF* shall provide the Township 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*.
- (16) Timing of Approval.
 - (a) Within thirty (30) calendar days of the date that an application for a *Tower-Based WCF* is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
 - (b) Within one hundred fifty (150) days of receipt of a complete application for a *Tower-Based WCF*, Zoning Hearing Board shall make a decision to approve or deny the proposed *Tower-Based WCF* and the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.

§280-167 Regulations Applicable to all *Small Wireless Communications Facilities*. The following regulations shall apply to *Small Wireless Communications Facilities*:

A. Application Procedures.

- (1) *Small WCFs* shall be a permitted use in all Township zoning districts, subject to the requirements of this Section 280-167 and generally applicable permitting as required by the Township Code.
- (2) Applications for *Small WCFs* shall be submitted to the Township Zoning Officer. The Township Zoning Officer shall provide all applications for *Small WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.
- (3) Applications for *Small WCFs* shall include the following:
 - (a) The name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Small WCF*.
 - (b) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the *Small WCF*, and a certification that the *WCF Applicant* has included all information required by the Township Code, signed by a representative of the *WCF Applicant*.
 - (c) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the *Small WCF*.
 - [1] If the *Small WCF* is proposed for location on an existing or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - [2] If installation of a new or replacement *Wireless Support Structure* is being proposed, the depiction shall include the color, dimensions, material and type of *Wireless Support Structure* proposed.
 - (d) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the *Small WCF*.
 - (e) An aerial photograph of the proposed site showing the area within 500 feet of the *Small WCF*. The aerial photograph shall identify all structures within such radius.

- (f) Photo simulations depicting the *Small WCF* from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the *Small WCF*.
- (g) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed *Small WCF* and *Wireless Support Structure* are structurally sound and shall not endanger public health and safety.
- (h) A report by a qualified engineering expert which shows that the *Small WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
- (i) A certificate of insurance as required by Section 280-167J.
- (j) Certification of the application's compliance with all requirements of this Section 280-167.
- (k) All application fees required by the Township as detailed in the Township fee schedule.

(4) Timing of Approval.

- (a) Within ten (10) business days of the date that an application for a *Small WCF* is filed with the Township Zoning Officer, the Township shall notify the *WCF Applicant* in writing of any information that may be required to complete such application. The applicant may then resubmit its application, at which point the applicable timeframe for approval shall restart. Any subsequent notice of incompleteness shall be issued within ten (10) business days of receipt of a resubmitted application and shall toll the applicable timeframe for approval until such time as the application is resubmitted.
- (b) Within sixty (60) days of receipt of an application for *Collocation* of a *Small WCF* on a preexisting *Wireless Support Structure*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
- (c) Within ninety (90) days of receipt of an application for a *Small WCF* requiring the installation of a new or replacement *Wireless Support Structure*, the Township 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) If the Township denies an application for a *Small WCF*, the Township shall provide the *WCF Applicant* with written documentation of the basis for

denial, including the specific provisions of the Township Code on which the denial was based, within five (5) business days of the denial.

- (e) The *WCF Applicant* may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.

- (5) Consolidated applications. A single *WCF Applicant* may not submit more than one consolidated or 20 single applications for *Collocated Small WCFs* in a 30-day period. If the Township receives more than one consolidated application or 20 single applications within a 45-day period, the applicable timeframe under Section 280-167A(4) shall be extended by 15 days.

B. Location and development standards.

- (1) *Small WCFs* in the public ROW requiring the installation of a new *Wireless Support Structure* shall not be located in front of any building entrance or exit.
- (2) All *Small WCFs* shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.

C. Time, Place and Manner. Once approved, the Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all *Small WCFs* in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

D. Attachment to municipal structures. The Township shall allow the *Collocation* of *Small WCFs* to structures owned by the Township in accordance with the hierarchy detailed in this section. If the *WCF Applicant* is proposing the *Collocation* of a *Small WCF* on a lower priority structure, it shall be a condition to the approval of the application that the *WCF Applicant* provide evidence that *Collocation* on a higher priority structure or *Wireless Support Structure* owned by a third-party is not *Technically Feasible*. In order from most preferable to least preferable, the Township's *Collocation* preferences are as follows.

- (1) Power poles.
- (2) Traffic signage poles without traffic signals.
- (3) Traffic signal poles.
- (4) Decorative light poles.

- E. Obstruction. *Small WCFs* and *Accessory Equipment* shall be located so as not to 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.
- F. Graffiti. Any graffiti on a *Small WCF*, including the *Wireless Support Structure* and any *Accessory Equipment*, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Township.
- G. Design standards. All *Small WCFs* in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Township Department of Community Development and the Manual is adopted herein by reference.
- H. Obsolete equipment. As part of the construction, *Modification* or *Replacement* of a *Small WCF*, the *WCF Applicant* shall remove any obsolete or abandoned equipment from the *Wireless Support Structure*. *If the WCF Applicant identifies any third party equipment that has been abandoned as part of the construction, the WCF Applicant shall notify the Township of any such equipment.*
- I. Relocation or Removal of Facilities. Within ninety (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 *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 that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Township.
- J. Time limit for completion of construction. The proposed *Collocation*, the *Modification* or *Replacement* of a *Wireless Support Structure* or the installation of a new *Wireless Support Structure* with *Small WCF* attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the Township and the *WCF Applicant* agree in writing to extend the period.
- K. 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.

- L. Insurance. Each person that owns or operates a *Small 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 *Small WCF*.
- M. Permit Term. Permits for Small WCFs shall be valid for a term of five (5) years. Applications for renewal of permits for Small WCFs shall be submitted sixty (60) days prior to expiration of the then current permit term. Permits shall be renewed for two additional five-year periods if the WCF Applicant is in compliance with the criteria set forth in applicable federal, state and township laws/ordinances and provided that the WCF Applicant has obtained all necessary consent from the owner of the structure to which the Small WCF is attached. If the permit for any Small WCF expires and an application for renewal of such permit has not been submitted, the Small WCF shall be considered abandoned and may be removed pursuant to the requirements of Section 280-164 O.
- N. Micro wireless facility. A small wireless facility: (1) does not exceed two cubic feet in volume; and (2) has an exterior antenna no longer than eleven (11) inches. Permits are not required for 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 right of way, unless the proposed work involves the excavation, closure of a sidewalk or closure of a vehicular lane.

§280-168 Violations and penalties.

- A. Penalties. Any person violating any provision of this Article XXVIII shall be subject to a penalty of 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.
- B. Determination of Violation. In the event a determination is made that a person has violated any provision of this Article, such person shall be provided written notice of the violation in accordance with Section 616.1 of the Pa. Municipalities Planning Code, 53 P.S. 10616.1. 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 good faith efforts to cure and is diligently pursuing such efforts. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this Article and/or federal and/or Pennsylvania law and regulations.

SECTION II. Miscellaneous

- A. 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.
- B. 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.
- C. Effective Date. This Ordinance shall become effective in accordance with the Township Home Rule Charter.

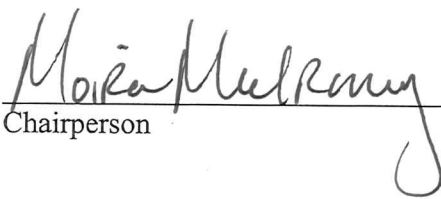
ENACTED AND ORDAINED this *14* day of *March*, 2022.

ATTEST:

RADNOR TOWNSHIP BOARD OF COMMISSIONERS:



Manager



Chairperson