

**TOWNSHIP OF WEST PIKELAND  
CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2015-02**

**AN ORDINANCE OF THE TOWNSHIP OF WEST PIKELAND, CHESTER COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE WEST PIKELAND TOWNSHIP ZONING ORDINANCE OF 2015, AS AMENDED, PROVIDING FOR THE REPEAL OF CERTAIN SECTIONS OF THE ZONING ORDINANCE, 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; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION I. Repealer of Certain Definitions.**

The following definitions: "Antenna, Commercial Communications", "Antenna Height", "Antenna Supporting Structure", "Communications Tower", and "Communications Facility", "Communications Equipment" are hereby repealed and removed as definitions from Article II, Section 202. Definition of Terms.

**SECTION II. Repealer of Certain Zoning District Provisions and Addition of Replacement Provisions**

- A. Section 402.A.8. of Article IV shall be removed and repealed in order to remove language referencing municipal communications towers as a by-right use in that section.
- B. Section 402.A.7 of Article IV shall be include removed and replaced to read as follows:

"7. Municipal Uses, including park and recreational areas and any Wireless Communications Facilities owned, maintained or controlled by the Township."

C. Section 502.A.9. of Article V shall be removed and repealed in order to remove language referencing municipal communications towers as a by-right use in that section.

D. Section 502.A.8 of Article V shall be removed and replaced to read as follows:

“8. Municipal Uses, including park and recreational areas and any Wireless Communications Facilities owned, maintained or controlled by the Township.”

E. Section 602.A.1.j. of Article VI shall be removed and repealed in order to remove language referencing municipal communications towers as a by-right use in the V-1 Village Preservation District.

F. Section 602.A.1.g. of Article VI shall be removed and replaced to read as follows:

“g. Municipal Uses, including any Wireless Communications Facilities owned, maintained or controlled by the Township.”

G. Section 602.B.1.j. of Article VI shall be removed and repealed in order to remove language referencing municipal communications towers as a by-right use in the V-2 Village Preservation District.

H. Section 602.B.1.g. of Article VI shall be include removed and replaced to read as follows:

“g. Municipal Uses, including any Wireless Communications Facilities owned, maintained or controlled by the Township.”

I. Section 602.C.1.k. of Article VI shall be removed and repealed in order to remove language referencing municipal communications towers as a by-right use in the V-3 Village Preservation District.

J. Section 602.C.1.i. of Article VI shall be include removed and replaced to read as follows:

“i. Municipal Uses, including any Wireless Communications Facilities owned, maintained or controlled by the Township.”

K. Section 602.C.3.c of Article VI shall be removed and repealed in order to remove the language providing for a communications facility as a permitted conditional use . . . .

**SECTION III. Amendment to Article II, Definitions of the Zoning Ordinance**

Section 202 of Article II of the Zoning Ordinance is hereby amended to include the following definitions to the "Definitions" section:

1. *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 as defined below.
2. *Co-location*—the mounting of one or more WCFs, including Antennae, on an existing Tower-Based WCF, or on any structure that already supports at least one Non-Tower WCF.
3. *Distributed Antenna Systems (DAS)*—network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.
4. *Emergency*—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Rights-of-Way to be unusable and result in loss of the services provided.
5. *FCC*—Federal Communications Commission.
6. *Height of a Tower-Based WCF* - the vertical distance measured from the ground level, including any base pad, to the highest point on a Tower-Based WCF, including Antennae mounted on the tower and any other appurtenances.
7. *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.
8. *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 or any Related Equipment that is mounted to the ground or at ground-level.
9. *Related Equipment*—any piece of equipment related to, incidental to, or necessary for, the operation of a Tower-Based WCF or Non-Tower WCF. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.

10. *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, and light poles.
11. *Substantially Change or Substantial 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 Antennae; 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.
12. *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 and DAS facilities on freestanding, ground based structures are considered to be Tower-Based WCFs.
13. *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)
14. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
15. *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.
16. *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 right-of-way (ROW) or other Township owned land or property.
17. *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.

**SECTION IV. ADOPTION OF NEW WIRELESS COMMUNICATIONS FACILITIES PROVISIONS**

Section 1011 of Article X, including all provisions of Ordinance No. 99-03, is hereby repealed in its entirety and replaced with a new Section 1011 as follows:

**SECTION 1011. Wireless Communications Facilities**

**A. Purposes and Findings of Fact.**

1. The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in West Pikeland Township (referred to herein as the "Township"). While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
2. By enacting these provisions, the Township intends to:
  - a. Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision for necessary services;
  - b. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
  - c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
  - d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, 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 co-locate their commercial communications antennas and related facilities on existing towers;

- f. Ensure the structural integrity of commercial communications antenna support structures through compliance with applicable industry standards and regulations; and
- g. Promote the health, safety and welfare of the Township's residents.

## B. General and Specific Requirements for Non-Tower Wireless Communications Facilities

### 1. Regulations Applicable to all Non-Tower WCF.

- a. Permitted in All Zoning Districts Subject to Regulations. Non-Tower WCFs are permitted in all Zoning Districts subject to the restrictions and conditions prescribed below.
- b. Non-Conforming Wireless Support Structures. Non-Tower WCF shall be permitted to co-locate upon non-conforming Tower-Based WCF and other non-conforming structures.
- c. 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.
- d. Wind. All 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/EIA-222-E, as amended).
- e. Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety such as those promulgated by the Federal Aviation Administration.
- f. Public Safety Communications. Non-Tower WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- g. Radio Frequency Emissions. Non-Tower WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office

of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

- h. 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:
  - (1) All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (2) If the WCF or accessory facility is not removed within two (2) 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 or the owner of the property upon which the WCF is located.
- i. 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 WCF Applicant in writing of any information that may be required to complete such application. Within sixty (60) 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 WCF Applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the Township's sixty (60) day review period. Time extensions may be agreed upon by all parties.
- j. Insurance. Each Person that owns or operates a Non-Tower WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower WCF. Additional insurance may be required if deemed necessary by the Township.
- k. Indemnification. Each Person that owns or operates a Non-Tower 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 Non-Tower WCF. Each Person that owns or operates a Non-Tower 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 Non-Tower 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.

1. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- (1) The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
- (2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

m. Reservation of Rights. In accordance with applicable law and as set forth in more detail in subsequent design and development standards below, the Township reserves the right to deny an application for the construction or placement of any Non-Tower WCF for numerous factors, which include but are not limited to, visual impact, design, and safety standards.

n. Non-commercial usage exemption. Township residents utilizing satellite dishes and antennae for the purpose of maintaining radio, television, phone, and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the Zoning Ordinance. Amateur radio enthusiasts, such as those owning, maintaining and/or operating HAM radios shall comply with the FCC's rules and regulations pertaining to Amateur Radio Service, set forth in 47 CFR 97, et seq.

2. Regulations Applicable to all Non-Tower WCF that do not substantially Change the Physical Dimensions of the Wireless Support Structure to which they are attached.

a. Permit Required. WCF Applicants proposing the modification of an existing Tower-Based WCF shall obtain a Zoning Permit from the Township. In order to be considered for such Zoning Permit, the WCF Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.

- b. Related Equipment. Ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within fifty (50') feet of a lot in residential use or zoned residential.
  - c. 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.
3. Regulations Applicable to all Non-Tower Wireless Communications Facilities that do Substantially Change the Wireless Support Structure to which they are attached:
- a. Prohibited on Certain Structures. No Non-Tower WCFs greater than ten (10') feet in height shall be located on single-family detached residences, single-family attached residences, or any residential accessory structure.
  - b. Permit Required. Any WCF Applicant proposing the construction of a new Non-Tower WCF, or the modification of an existing Non-Tower WCF, shall first obtain a Zoning Permit from the Township. After receipt of the permit application, the Township Zoning Officer shall determine whether additional zoning relief is necessary under the Zoning Ordinance.
  - c. Historic Buildings. No Non-Tower WCF may be located upon any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township to be of historical significance.
  - d. 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 section. 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.
  - e. 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.
4. Regulations Applicable to Non-Tower WCF located outside the Public Rights-of-Way that do Substantially Change the Wireless Support Structure to which they are attached.

a. Development Regulations. Non-Tower WCFs shall be co-located on existing Wireless Support Structures, such as existing buildings or Tower-Based WCFs, subject to the following conditions:

(1) The total height of any Wireless Support Structure and mounted WCF shall not exceed the maximum height permitted in the underlying zoning district, unless the WCF Applicant obtains a variance.

(2) If the WCF Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the area and bulk requirements for the applicable zoning district.

(3) A security fence of not less than six (6') feet and not more than eight (8') feet shall surround any separate communications equipment building.

b. Design Regulations.

(1) Non-Tower WCFs shall employ Stealth Technology subject to the approval of the Township.

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

c. Removal and Replacement.

(1) 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.

d. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within 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.

5. Additional Regulations Applicable to all Non-Tower WCF located in the Public Rights-of-Way.

a. Co-location. Non-Tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. If co-location is shown by the Applicant to not be technologically feasible, the WCF Applicant may be permitted to locate its Non-Tower WCFs on existing poles or freestanding

structures that do not already act as Wireless Support Structures upon permitting approval by Township.

b. Design Requirements.

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

(2) Antenna and Related Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

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

d. Equipment Location. Non-Tower WCFs and Related 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:

(1) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within eighteen (18") inches of the face of the curb or edge of pavement, or within an easement extending onto a privately-owned lot;

(2) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.

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

(4) Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the facility owner within ten (10) business days of notice of the existence of the graffiti. If such graffiti is

not removed within the allotted timeframe, the Township shall remove the graffiti and assess the cost of removal against the facility owner or against the owner of the property upon which the facilities are located.

(5) Any proposed underground vault related to Non-Tower WCFs shall be reviewed and approved by the Township as part of the permitting process.

e. 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:

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

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

1. Regulations Applicable to all Tower-Based Wireless Communications Facilities.

- a. 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.
- b. Notice. Upon submission of a conditional use application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall mail notice to all owners of every property within five hundred

(500) feet of the proposed facility. The WCF Applicant shall provide proof of the notification to the Township.

- c. Conditional Use Authorization Required. Tower-Based WCFs are permitted in certain zoning areas by conditional use. No WCF Applicant shall have the right under these regulations to erect a Tower-Based WCF to the maximum height specified in this section unless it proves the necessity for such height for adequate coverage. In addition:

(1) Prior to the Board's approval of a conditional use authorizing the construction and installation of Tower-Based WCF, it shall be incumbent upon the WCF Applicant for such conditional use approval to prove to the reasonable satisfaction of the Board that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment such as repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall 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 alternative location exists.

(2) The conditional use application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, 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.

(3) The conditional use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all state and federal laws and regulations concerning aviation safety.

(4) Where the Tower-Based WCF is located on a property with another principal use, the WCF Applicant shall present documentation to the Board that the owner of the property has granted an easement for the proposed WTF and that vehicular access will be provided to the facility.

- d. Engineer Inspection. Prior to the Township's issuance of a building permit authorizing construction and erection of a Tower-Based WCF, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and

the erection of the structure. This certification shall be provided during the conditional hearings or at a minimum be made as a condition to be satisfied prior to issuance of any building permits.

- e. Visual Appearance and Land Use Compatibility. Tower-Based WCF shall employ Stealth Technology. All Tower-Based WCF and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Board of Supervisors 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; benefit neighboring properties by preventing 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.
- f. Co-Location and Siting. An application for a new Tower-Based WCF shall not be approved unless it is shown that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. The 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 commercial communications antenna(s) on an existing structure. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter ( $\frac{1}{4}$ ) of a 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:
  - (1) The proposed Antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - (2) The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
  - (3) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

- g. Permit Required for Modifications. To the extent permissible under applicable state and federal law, any WCF Applicant proposing the modification of an existing Tower-Based WCF, which increases the overall height of such WCF, shall first obtain a Zoning Permit from the Township.
- h. Gap in Coverage. A WCF Applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage 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 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 WCFs.
- i. 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 required Zoning Permit from the Township.
- j. 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-222-E, as amended).
- k. Site plan. A detailed site plan shall be required for all Tower-Based WCFs, showing all existing and proposed structures and improvements, including but not limited to Antenna and related support structures, building, fencing, buffering and ingress and egress.
- l. 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 one hundred twenty (120') feet, as measured vertically from the ground level to the highest point on the structure, including Antennae and subsequent alterations. Should the WCF Applicant prove that another provider of wireless communications services has agreed to co-locate antennae on the WCF Applicant's Tower-Based WCF and requires a greater tower height to provide satisfactory service for wireless communications than is required by the WCF Applicant, the total Height of such Tower-Based WCF shall be permitted to be increased in height but shall not exceed one hundred fifty (150') feet.
- m. Related Equipment. Either one single-story wireless communications equipment building not exceeding 500 square feet in area or up to five metal boxes placed on a concrete pad not exceeding 10 feet by 20 feet in area housing the receiving and transmitting equipment may be located on the site for each unrelated company

sharing commercial communications antenna(s) space on the Tower-Based Wireless Communications Facility.

- n. Public Safety Communications. No Tower-Based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- o. Maintenance. The following maintenance requirements shall apply:
  - (1) Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (2) Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents, and utilize the best available technology for preventing failures and accidents.
- p. Radio Frequency Emissions. Tower-Based WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- q. Historic Buildings or Districts. Tower-Based WCF shall not be located upon a property, and/or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Township.
- r. Signs. All Tower-Based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- s. Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- t. Noise. Tower-Based WCFs 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.

- u. Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety such as those promulgated by the Federal Aviation Administration.
- v. Retention of Experts. The Township may hire any consultant and/or expert 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 these 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.
- w. 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 WCF Applicant in writing of any information that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within 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 WCF Applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period. Time extensions may be agreed upon by all parties.
- x. Non-Conforming Uses. 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.
- y. 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:
  - (1) 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.
  - (2) 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 or the owner of the property upon which the WCF is located.

- (3) Any unused portions of Tower-Based WCFs, including Antennae, 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.
- z. 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.
- aa. 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.
- bb. Reservation of Rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any Tower-Based WCF for numerous factors, including but are not limited to, visual impact, design, and safety standards.
- cc. Insurance. Each Person that owns or operates a Tower-Based WCF greater than forty (40') feet in height shall provide the Township 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. Each Person that owns or operates a Tower-Based WCF forty (40) feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each Tower-Based WCF. Additional insurance may be required if deemed necessary by the Township.
- dd. Indemnification. Each Person that owns or operates a Tower-Based 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 Tower-Based WCF. Each Person that owns or operates a Tower-Based 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 Tower-Based 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.

- ee. Engineer Signature. All plans and drawings for a Tower-Based WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
  - ff. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a Tower-Based WCF, the WCF Applicant shall provide to the Township financial security sufficient to guarantee the removal of the Tower-Based WCF. Said financial security shall remain in place until the Tower-Based WCF is removed.
2. Regulations Applicable to Tower-Based Wireless Communications Facilities located outside the Public Rights-of-Way.
- a. Development Regulations.
    - 1. Tower-Based WCFs are permitted outside the public Rights-of-Way upon the following designated properties by conditional use:
      - (a) Municipally-owned properties, regardless of the underlying zoning district.
    - 2. Sole Use on a Lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum lot area of the district in which it is located. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed WCF structure height unless it is demonstrated to the reasonable satisfaction of the Board that in the event of failure the Tower-Based WCF is designed to collapse upon itself.
    - 3. 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:
      - (a) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.
      - (b) Minimum Lot Area. The minimum lot area shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-Based WCF, the equipment building, security fence, and buffer planting if the proposed WCF is greater than forty (40') feet in height.
      - (c) Minimum Setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed WCF structure height,

unless it is demonstrated to the reasonable satisfaction of the Board that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants.

b. Design Regulations.

1. The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact and shall be subject to the approval of the Township.
2. To the extent permissible by law, any height extensions to an existing Tower-Based WCF shall require prior Zoning Permit approval.
3. Any Tower-Based WCF over forty (40') feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

c. Surrounding Environs.

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

d. Fence/Screen.

1. A security fence having a minimum height of six (6') feet and a maximum height of eight (8') feet shall completely surround any Tower-Based WCF greater than forty (40) feet in height or any building housing WCF equipment.
2. Landscaping shall be required to screen as much of a newly constructed Tower-Based WCF as possible. The Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Board, they achieve the same degree of screening. Existing vegetation shall be preserved to the maximum extent possible.

e. Accessory Equipment.

1. Ground-mounted Related Equipment associated to, or connected with, a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technologies, as described above.
  2. All Related Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
  - f. 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 grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
  - g. Parking. For each Tower-Based WCF greater than forty (40) feet in height, there shall be two off-street parking spaces.
  - h. Inspection. The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the Zoning Ordinance and any other provisions found within 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.
3. Regulations Applicable to Tower-Based Wireless Communications Facilities located in the Public Rights-of-Way.
- a. Development Standards.
    1. Only Tower-Based WCFs forty (40') feet or shorter in height shall be permitted by conditional use within the Public Rights-of-Way along the following corridors and roadways, regardless of the underlying zoning district, provided that they are not situated within fifty (50') feet of an underground utility (excluding underground sewer and water lines):
      - a. Route 113; and
      - b. Route 401.
    2. Such Tower-Based WCFs shall not be located within any Public Right-of-Way which directly fronts or abuts the front yard setback area of a residential dwelling.
    3. Such Tower-Based WCFs shall be permitted along Route 113 and Route 401; however, they shall not be located along such roads within Public

Rights-of-Way which directly abut, or are within fifty (50') feet of, parcels which have designated Class I or Class II Historic Resources situated upon such parcels, as designated upon the Historic Resources Map of the Township, A-2..

- b. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- c. Equipment Location. Tower-Based WCFs and Related 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:
  - (1) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb, or edge of pavement.
  - (2) Ground-mounted equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  - (4) Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti. If such graffiti is not removed within the allotted timeframe, the Township shall remove the graffiti and assess the cost of removal against the facility owner or against the owner of the property upon which the facilities are located.
  - (5) Any underground vaults related to Tower-Based WCFs shall be reviewed and approved by the Township as part of the permitting process.
- d. Design Regulations.
  - (1) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact.
  - (2) Tower-Based WCFs in the public ROW shall not exceed forty (40) feet in height.

(3) To the extent permissible under state and federal law, any height extensions to an existing Tower-Based WCF shall require prior Zoning Permit approval, and shall not increase the overall height of the Tower-Based WCF to more than forty (40) feet if located in the public ROW.

e. 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:

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

(2) The operations of the Township or other governmental entity in the Right-of-Way;

(3) Vacation of a street or road or the release of a utility easement; or

(4) An Emergency as determined by the Township.

f. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Tower-Based 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 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.

#### D. Supplemental Regulations .

1. Tower-Based WCF proposed upon Municipally-owned properties are permitted when approved by conditional use by the Board of Supervisors pursuant to the applicable conditional use standards set forth in the preceding sections governing Tower-Based WCF, and subject to the following additional criteria:

a. Not more than two Tower-Based WCF shall be located upon a single property;

b. Where a previously approved Tower-Based WCF is located upon land owned by the Township, antenna(s) of providers other than the entity owning the tower may co-

locate on the tower, if the proposed co-location meets all of the requirements set forth in the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. § 11702.1.

- c. When required by the Board, the Tower-Based WCF shall be architecturally screened and landscaped to simulate other structures existing in the Township, such as light poles, flagpoles, farm silos or trees (stealth features), and shall be painted one or more colors (blue, green or remain galvanized) as directed by the Board.
  - d. The discretion to permit the use of Township owned property for Tower-Based WCF and the specific location of the Tower-Based WCF shall be at the absolute discretion of the Township and the precise location of the Tower- Based WCF shall be an express condition thereof.
  - e. The Township may enter into separate agreements and fee arrangements with Tower-Based WCF Applicants beyond those permit fees and reimbursement costs set forth in previous sections of this Zoning Ordinance.
2. Non-Tower WCF may also be permitted upon Municipally-owned properties, regardless of the underlying zoning district, subject to those regulations and restrictions as set forth in the preceding sections governing all Non-Tower WCF and subject to the following additional criteria:
- a. Where a previously approved Tower-Based WCF or other Wireless Support Structure is located upon land owned by the Township, antenna(s) of providers other than the entity owning the tower may co-locate on the Wireless Support Structure, if the proposed co-location meets all of the requirements set forth in the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. § 11702.1..
  - b. Subject to applicable law, the permission to grant such Non-Tower WCF use and the location of the Non-Tower WCF within the land owned by the Township shall be at the absolute discretion of the Township and subject to the required Zoning Permit approval process.
  - c. The Township may enter into separate agreements and fee arrangements with Non-Tower-Based WCF Applicants beyond those permit fees and reimbursement costs set forth in previous sections of this Zoning Ordinance.

## **SECTION V.           Miscellaneous**

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

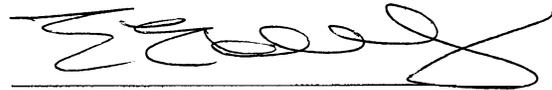
2. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
3. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of West Pikeland Township.

ENACTED AND ORDAINED this 21<sup>st</sup> day of *September*, 2015.

ATTEST:

WEST PIKELAND TOWNSHIP  
BOARD OF SUPERVISORS:

  
\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Chairman