

**NORTH FRANKLIN TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA**

ORDINANCE: 8 OF 2019

AN ORDINANCE OF THE TOWNSHIP OF NORTH FRANKLIN, WASHINGTON COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE, SPECIFICALLY ARTICLE II TO PROVIDE A SPECIFIC DEFINITION FOR WIRELESS COMMUNICATION FACILITIES (WCF) AND ARTICLE XIII, SECTION 1338 TO PROVIDE ADDITIONAL REGULATIONS FOR RADIO, TV, COMMUNICATIONS TOWERS AND WIRELESS COMMUNICATION FACILITIES (WCF) WITHIN THE TOWNSHIP.

WHEREAS, the Municipalities Planning Code, 53 P.S. §10101 et seq. (the “MPC”), authorizes the Township (the “Township”) to create ordinances for the regulation, administration and enforcement of Township zoning ordinances, codes, etc.; and,

WHEREAS, pursuant to its authority under the MPC, the Board of Supervisors of the Township (the “Township Supervisors”) have adopted a Township Zoning Ordinance regulating various uses; and,

WHEREAS, the Township believes there is a need to amend the Zoning Ordinance, specifically Section 202 to create a definition for Wireless Communication Facilities (WCF) and Section 1338 to provide additional regulations for Radio, RV, Communications Towers and Wireless Communication Facilities within the Township.

NOW THEREFORE, the Board of Supervisors hereby ordains and enacts as follows, incorporating the above recitals by reference:

SECTION 1. TITLE.

This Ordinance shall be referred to as the “North Franklin Township Wireless Communications Facilities Amendment Ordinance of 2019”.

SECTION 2. AMENDMENT TO ARTICLE II – DEFINITIONS; SPECIFICALLY, SECTION 202 SPECIFIC MEANINGS OF THE TOWNSHIP ZONING ORDINANCE.

Section 202 of the Township Zoning Ordinance is amended by adding the following language:

WIRELESS COMMUNICATION FACILITIES (WCF) are the antennas, support structures and other equipment or apparatus necessary for providing personal wireless services and information services.

SECTION 3. AMENDMENT TO ARTICLE XIII – CONDITIONAL USES AND SPECIAL EXCEPTIONS; SPECIFICALLY, SECTION 1338 RADIO, TV AND COMMUNICATIONS TOWERS OF THE TOWNSHIP ZONING ORDINANCE.

Section 1338 of the Township Zoning Ordinance is repealed in its entirety and replaced with the following:

1338 RADIO, TV, COMMUNICATIONS TOWERS AND WIRELESS COMMUNICATION FACILITIES (WCF)

- A. The tower may exceed the height limitations of the zoning district in which it is proposed by a maximum of twenty-five (25) feet.
- B. The height of the tower shall be subject to any applicable Airport Zoning Regulations.
- C. A statement prepared by a registered professional engineer must be submitted indicating that the proposed yard area is adequate to prevent any damage to neighboring structures from ice fall. The tower shall be set back from all property lines at least as many feet as its height including top mounted accessories, and must be adequate to accommodate any ice fall as indicated in the registered professional engineer's statement.
- D. No sign or other structure may be mounted on the tower, except as required or approved by the FCC, FAA other governmental agency.
- E. The applicant shall submit evidence that the tower and its method of installation has been designed a registered engineer and is certified by that registered engineer to be structurally sound and able to withstand wind and ice loads.
- F. A six (6) foot high chain link or similar security fence with self-latching gate shall be required around the tower to limit accessibility to the general public.
- G. General requirements for all wireless communications facilities. The following regulations shall apply to all wireless communications facilities:
 - (1) Standard of care. Any 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, where applicable. 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.

- (2) Additional documentation. As part of the application for any WCF requiring conditional use approval, the applicant shall:
 - (a) Submit a completed Township-supplied checklist to ensure the completeness of the WCF application. All items delineated on the checklist will be required to be submitted with the application. The Township Zoning Officer may review all elements of the application and checklist with the applicant prior to formal submission.
 - (b) Execute a valid contract for professional services with the Township to allow for review and processing of the WCF application. Such contract for professional services shall also allow for recovery of expenses incurred by the Township in its review of the WCF application.
- (3) Wind and ice. All WCF structures 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/EIA/TIA-222, as amended).
- (4) Aviation safety. All WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (5) Public safety communications. 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.
- (6) 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.

- (7) Financial security. Prior to receipt of a zoning permit for the construction or placement of a WCF, the WCF applicant shall provide to the Township financial security sufficient to guarantee the removal of the WCF. Said financial security shall remain in place until the WCF is removed.
- (8) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - (a) The WCF shall be fully automated and unattended daily and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility to promote the safety and security of the Township's residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (9) 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.
- (10) Historic buildings. No 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 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.
- (11) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all WCF 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.
- (12) Equipment location. WCF and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
 - (a) In no case shall ground-mounted accessory equipment, walls, or landscaping be located within 24 inches of the face of the curb.

- (b) Ground-mounted accessory equipment that cannot be placed underground shall be screened, to the fullest extent possible, using landscaping or other decorative features to the satisfaction of the Township.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner.
 - (e) Any underground vaults related to WCFs shall be reviewed and approved by the Township.
- (13) Relocation or removal of facilities. Within 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 determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (a) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (b) The operations of the Township or other governmental entity in the right-of-way;
 - (c) Vacation of a street or road or the release of a utility easement; or
 - (d) An emergency as determined by the Township.
- (14) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs, subject to the limitations in this § 155-59.
- H. General and specific requirements for non-tower wireless communications facilities.
- (1) The following regulations shall apply to all non-tower WCF:
 - (a) Permitted in all zones subject to regulations. Non-tower WCF are permitted in all zones subject to the restrictions and conditions prescribed below and subject to applicable permitting by the Township.

- (b) Noncommercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and antennas for maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section.
- (c) Nonconforming wireless support structures. Non-tower WCF shall be permitted to co-locate upon nonconforming tower-based WCF and other nonconforming structures. Co-location of WCF upon existing tower-based WCF is encouraged even if the tower-based WCF is nonconforming as to use within a zoning district.
- (d) Removal. If 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 WCF, or portions of WCF, shall be removed as follows:
 - [1] All abandoned or unused WCFs and accessory facilities shall be removed within two 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 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.
- (e) 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.
- (2) The following regulations shall apply to all co-located non-tower WCF that do not substantially change the physical dimensions of the wireless support structure to which they are attached, and/or fall under the Pennsylvania Wireless Broadband Collocation Act:¹
 - (a) Building permit required. WCF applicants proposing the modification of an existing tower-based WCF shall obtain a building permit from the Township. To be considered for such building permit, the WCF applicant must submit an application to the Township in accordance with applicable permit policies and procedures.

¹ . Editor's Note: See 53 P.S. § 11702.1 et seq.

- (b) Timing of approval for applications that fall under the WBCA. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such application. Within 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-day review period.
 - (c) Accessory equipment. Ground-mounted accessory equipment greater than three cubic feet shall not be located within 50 feet of a lot in residential use or zoned residential.
 - (d) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF or \$1,000, whichever is less.
- (3) The following regulations shall apply to all non-tower WCF that do substantially change the wireless support structure to which they are attached, or that otherwise do not fall under the Pennsylvania Wireless Broadband Collocation Act:²
- (a) Prohibited on certain structures. No non-tower WCF shall be located on traffic signals, single-family detached residences, single-family attached residences, two-family residences, or any residential accessory structure.
 - (b) Conditional use authorization 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 conditional use authorization from the Township. The conditional use application shall demonstrate that the proposed facility complies with all applicable provisions in the North Franklin Township Zoning Ordinance.
 - (c) Development regulations. Non-tower WCF shall be co-located on existing wireless support structures, such as existing buildings or tower-based WCF, subject to the following conditions:

² . Editor's Note: See 53 P.S. § 11702.1 et seq.

- [1] The total height of any wireless support structure and mounted WCF shall not exceed 20 feet above the maximum height permitted in the underlying zoning district.
 - [2] In accordance with industry standards, all non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower WCF. Such documentation shall be analyzed on an individual basis.
 - [3] If the WCF applicant proposes to locate the accessory equipment in a separate building, the building shall comply with the requirements of the applicable zoning district.
 - [4] A security fence of not less than six feet and not more than eight feet shall surround any separate communications equipment building. The top of such security fence may have barbed wire attached to it. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- (d) Design regulations. Non-tower WCF shall employ stealth technology and be treated to match the wireless support structure to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- (e) Removal, replacement and modification.
- [1] The removal and replacement of non-tower WCF and/ or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not substantially change the overall size of the WCF or the number of antennas.
 - [2] Any material modification to a WCF shall require notice to be provided to the Township, and possible supplemental permit approval to the original permit or authorization.
- I. Regulations applicable to all non-tower WCF located in the public rights-of-way. In addition to the applicable non-tower WCF provisions listed in § 155-59A(1) and B(1), the following regulations shall apply to non-tower WCF located in the public rights-of-way:
- (1) Location. Non-tower WCF in the ROW shall be located or co-located on existing poles, such as existing utility poles, light poles, or other available infrastructure. If co-location is not technologically feasible, the WCF applicant shall locate its non-tower WCF on existing poles or freestanding structures that do not already act as wireless support structures with the Township's approval. The WCF applicant shall provide the Township with

copies of any agreements from owners of poles or other support structures authorizing the use/occupancy of such structures.

(2) Design requirements:

- (a) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six feet in height and proportionate to the structures upon which they are mounted as determined by the Township Board of Supervisors. All equipment shall be the smallest and least visibly intrusive equipment feasible.
- (b) Antennas and accessory equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

J. General and specific requirements for all tower-based wireless communications facilities.

(3) The following regulations shall apply to all tower-based wireless communications facilities.

- (a) Notice. Upon submission of an 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 1,000 feet of the proposed facility. The WCF applicant shall provide proof of the notification to the Township.
- (b) Conditional use authorization required. Tower-based WCF are permitted in certain zoning districts by conditional use and at a height necessary to satisfy their function in the WCF applicant's wireless communications system. No WCF applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF applicant shall demonstrate that the antenna/tower/pole for the tower-based WCF is the minimum height necessary for the service area.

[1] Prior to the Township Board of Supervisors' 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 Township Board of Supervisors that the WCF applicant cannot adequately extend or infill its communications system using alternative equipment installed on existing structures. The WCF applicant shall further

demonstrate that the proposed tower-based WCF must be located where it is proposed 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] Where the tower-based WCF is located on a property with another principal use, the WCF applicant shall present documentation to the Township Board of Supervisors that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.
 - [4] The conditional use application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all applicable provisions of the North Franklin Township Zoning Ordinance.
- (c) Engineer inspection. Prior to the Township's issuance of a permit authorizing construction and erection of a tower-based WCF, an engineer or engineers registered in Pennsylvania shall issue to the Township a signed, 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. In addition, the permittee's engineer shall issue to the Township a signed, written certification of the proper construction of the foundation and the erection of the structure upon completion of the tower-based WCF.
 - (d) Visual appearance and land use compatibility. Tower-based WCF shall employ stealth technology which may include the tower portion to be painted a non-specular, medium gray color or another color approved by the Township Board of Supervisors or shall have a galvanized finish. All tower-based WCF and accessory equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.
 - (e) Co-location and siting. An application for a new tower-based WCF shall demonstrate that the proposed tower-based WCF cannot be

accommodated on an existing or approved structure or building or sited on land owned and maintained by the Township. The WCF applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one-half-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 accessory 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 accessory equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - [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] In the opinion of the Supervisors, a commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- (f) Visual impact analysis. A visual impact analysis shall be done for all tower-based WCF and shall accomplish the following:
- [1] Delineate the viewsheds from the structure's location on a 7.5-minute topographic map as required for the type of use. Indicate the location of all public use areas on this map.
 - [2] Delineate line-of-sight profile transects every 15° or less on the above map. Additional transects may be necessary where there is a concentration of public use areas.
 - [3] Prepare separate and scaled line-of-sight profiles for each transect. These profiles should be drawn on graph paper at a scale of one inch equals 1,000 feet (horizontal) and one inch equals 100 feet (vertical), depicting both existing topography, public use areas and the overall height of the proposed structure.
 - [4] Delineate by shading all areas on the map within a five-mile radius of the proposed structure where it could be visible based on topography alone using the line-of-sight profiles.
 - [5] Assess the nature and extent of the structure's actual visibility from each identified public use area. This step is to include identification of any screening of the structure provided by intervening vegetation, buildings, etc. A brightly colored balloon or collection of balloons may

be the best target for this step; other permitted targets include a tarp, scaffolding or a crane.

- [6] Delineate by contrasting on the map all public use areas and portions of these areas from where the structure will be visible. Provide a description of the structure's visibility in terms of what will be seen, distance from the structure to the viewing point, the location, type and height of intervening vegetation and, for roads and trails, the duration of view to the traveling public. Also, provide representative high quality photographs from each such area keyed to the map and superimposing the approximate configuration of the structure and denoting the location of the target. Provide separate representative line-of-sight profiles of actual visibility from each such area depicting the structure, existing topography and heights of intervening vegetation.
- (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 permit from the Township. To the extent permissible under law, nonroutine modifications shall be prohibited without a permit.
- (h) Gap in coverage. To be considered for approval, a WCF applicant for a tower-based WCF must demonstrate 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.
- (i) Additional antennas. As a condition of approval for all tower-based WCF, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennas on tower-based WCF where technically and economically feasible.
- (j) 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 180 feet in the Commercial/ Industrial District or 100 feet in the Open Space/ Resource Conservation District, as measured vertically from the ground level to the highest point on the structure, including antennas and subsequent alterations.
- (k) Accessory equipment. Either one single-story wireless communications equipment building not exceeding 500 square feet in area or up to five metal cabinets placed on a single 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 space on the tower-based wireless communications facility greater than 40 feet.

- (l) 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.
- (m) 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.
- (n) Timing of approval. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF and the 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-day review period.
- (o) Removal. If 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 WCF or portions of WCF shall be removed as follows:
 - [1] All unused or abandoned tower-based WCFs and accessory facilities shall be removed within 90 days 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 90 days 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.
 - [3] Any unused portions of tower-based WCF, including antennas, shall be removed within 90 days of the time of cessation of

operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.

- (p) FCC license. Each person that owns or operates a tower-based WCF over 40 feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (q) Insurance. Each person that owns or operates a tower-based WCF greater than 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 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.
- (2) The following regulations shall apply to tower-based wireless communications facilities located outside the public rights-of-way:
 - (a) Development regulations.
 - [1] Tower-based WCF shall not be located in or within 50 feet of an area in which utilities are primarily located underground.
 - [2] Tower-based WCF are permitted outside the public rights-of-way in the following zoning districts by conditional use, subject to the above prohibition:
 - [a] CI Commercial Industrial District.
 - [b] Open Space/Resource Conservation District.
 - [3] Sole use on a lot. A tower-based WCF shall be permitted as a sole use on a lot, provided that the underlying lot is a minimum of 6,000 square feet. The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall equal 100% of the proposed WCF structure's height.
 - [4] Combined with another use. A tower-based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:

- [a] The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.
- [b] Minimum lot area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence, and buffer planting if the proposed WCF is greater than 40 feet in height.
- [c] Minimum setbacks.
 - [i] The foundation and base of any tower-based WCF to be located within a Commercial/Industrial District shall be set back a minimum of 100 feet or the height of the tower-based WCF, whichever is larger, from any adjoining property line (not lease line). The distance from any other structure shall be at least 110% of the height of the proposed tower-based WCF. No tower-based WCF shall be erected within 500 feet of the boundary line separating a residential district from a Commercial/Industrial District.
 - [ii] The foundation and base of any tower-based WCF to be located within an Open Space/Resource Conservation District shall be set back a minimum of 500 feet from any adjoining property line (not lease line). The distance from any other structure shall be at least 100% of the height of the proposed tower-based WCF. No tower-based WCF shall be erected within 2,000 feet of the boundary line separating a residential district from an Open Space/Resource Conservation District.
- [d] No tower-based WCF shall be located within 1,000 feet of another tower.

(b) Design regulations.

- [1] To the extent permissible by law, any height extensions to an existing tower-based WCF shall require prior approval of the Township Board of Supervisors.

- [2] Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.
 - [3] Any tower-based WCF over 40 feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (c) Surrounding environs.
- [1] Other than dead or dying vegetation, no vegetation may be cut or otherwise removed, other than that necessary to construct or operate the WCF, without the prior approval of the Township. All areas disturbed to construct or operate the WCF shall be graded to conform to the existing topography and shall be planted with vegetation indigenous to the site, as required by the County Conservation District.
 - [2] The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA/TIA-222, as amended, to document and verify the design specifications of the foundation of the tower-based WCF, and anchors for guy wires, if used.
- (d) Fence/screen.
- [1] A security fence having a minimum height of six feet and a maximum height of eight feet shall surround any tower-based WCF greater than 40 feet in height, as well as guy wires, or any building housing WCF equipment.
 - [2] Landscaping shall be required to screen as much of a newly constructed tower-based WCF as possible. Such landscaping shall be subject to the approval of the Township Board of Supervisors.
- (e) Accessory equipment.
- [1] Ground-mounted accessory equipment associated, or connected, with a tower-based WCF shall be placed underground or screened from public view using stealth technologies, as described above.
 - [2] All accessory equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the

minimum setback requirements of the underlying zoning district.

- (f) Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to tower-based WCF. The access road shall be a minimum of 12 feet in width. 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. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
 - (g) Parking. For each tower-based WCF greater than 40 feet in height, there shall be two off-street parking spaces.
- (3) The following regulations shall apply to tower-based wireless communications facilities located in the public rights-of-way.
- (a) Location and development standards.
 - [1] Tower-based WCF 40 feet or shorter in height are prohibited in areas in which utilities are located underground.
 - [2] Tower-based WCF 40 feet or shorter in height shall not be located in the front facade area of any structure.
 - [3] Tower-based WCF 40 feet or shorter in height shall be permitted along certain collector roads and arterial roads throughout the Township, regardless of the underlying zoning district. A map of such permitted roads is kept on file at the Township Zoning Office.
 - (b) Design regulations.
 - [1] The WCF shall employ the most current stealth technology available. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
 - [2] Tower-based WCF in the public ROW shall not exceed 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 approval of the Township and shall not increase the overall height of the tower-based WCF to more than 40 feet.

- [4] Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.

- (c) 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.

SECTION 3. PENALTIES.

Any individual, agency, political party shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600.00, plus all court costs, including reasonable attorney's fees incurred by the Township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further the appropriate officers or agents of the Township are hereby authorized to issue a cease-and-desist notice and/or to seek equitable relief, including injunction to enforce compliance herewith. No bond will be required if injunctive relief is sought by the Township. A person who violates this ordinance shall also be responsible for the Township's attorney fees, engineering fees, expert fees and court costs associated with enforcement as well as the forfeiture of any fees as set forth in detail by Township Resolution. The Township shall also have the ability to suspend and/or terminate any zoning or other related permits issued related to said activity until brought into compliance.

SECTION 4. REPEALER.

Any Township Ordinances or provisions of the Township Code, which are inconsistent herewith are hereby repealed to the extent of any such inconsistency.

SECTION 5. SEVERABILITY.

If any sentence, clause, section or other part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ENACTED AND ORDAINED this 12th day of November, 2019.

ATTEST:


Secretary

BOARD OF SUPERVISORS
NORTH FRANKLIN TOWNSHIP


Chairman, Board of Supervisors