

## Appendix II

### WIRELESS COMMUNICATIONS FACILITIES

#### I. Short Title.

This Ordinance shall be known as the “Summit Township Wireless Communications Facilities Ordinance.”

#### II. Purposes and Findings of Fact.

- A. The purpose of this Ordinance is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Summit Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this Ordinance, the Township intends to:
1. Regulate the placement, construction, and modification of Wireless Communication Facilities to protect the safety and welfare of the public;
  2. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
  3. Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
  4. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities;
  5. Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
  6. Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape;

7. Ensure that wireless communications facilities will be removed in the event that such structures are abandoned or become obsolete and are no longer necessary; and
8. Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

### III. Definitions.

Any terms not specifically defined shall be construed in their legally-accepted meanings.

ANTENNA — Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services. An antenna shall not include Wi-Fi antennas which are designed for personal or private use, private residence mounted satellite dishes, television antennae, or amateur radio equipment, including, without limitation, ham or citizen band radio antennae. **(Amended February 7, 2022; Ordinance No. 2022-01)**

APPLICANT — A communications service provider that submits an application for the installation of wireless communication facilities. **(Amended February 7, 2022; Ordinance No. 2022-01)**

CABLE FACILITY — Buildings, other structures, and equipment used by the owner or operator of a cable television system to provide services. **(Amended February 7, 2022; Ordinance No. 2022-01)**

CABLE SYSTEM — As used in this Zoning Ordinance, the term shall have the meaning given to it in Section 602(6) of the Cable Communications Policy Act of 1984, as amended from time-to-time. **(Amended February 7, 2022; Ordinance No. 2022-01)**

COLLOCATION — The mounting of one or more WCFs, including antennae, or SWF, on a pre-existing structure or modifying a structure for the purpose of mounting or installing a WCF or SWF on that structure. **(Amended February 7, 2022; Ordinance No. 2022-01)**

COMMERCIALLY REASONABLE — Means terms and pricing that are reasonably consistent with similar wireless facility leases and agreements within a fifty (50) mile radius of the Township.

COMMUNICATION SERVICE PROVIDER — Any of the following:

1. A cable operator as defined in Section 602(4) of the Cable Communications Policy Act of 1984, as may be amended from time – to – time.
2. A provider of information services as defined in Section 3(20) of the Communications Act of 1934, 47 U.S.C. §152(24).
3. A telecommunications carrier as defined in Section 3(44) of the Communications Act of 1934.

4. A wireless provider.

**(Amended February 7, 2022; Ordinance No. 2022-01)**

DECORATIVE POLE – A municipal pole that is specifically designed and placed for aesthetic purposes. **(Amended February 7, 2022; Ordinance No. 2022-01)**

DISTRIBUTED ANTENNA SYSTEM (DAS) — Network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

ELIGIBLE FACILITIES REQUEST — An application for modification of an existing wireless communications facility or base station that involves—(A) collocation of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.

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

FCC — Federal Communications Commission.

HISTORIC BUILDING – A building located within the Township that is:

1. Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register;
2. Determined to be eligible for listing by the Keeper of the National Register of Historic Places in accordance with the National Historic Preservation Act;
3. Marked as a historical site by the Pennsylvania Historical and Museum Commission; and/or
4. Has its location within a Historic District as defined with this Ordinance.

**(Amended February 7, 2022; Ordinance No. 2022-01)**

HISTORIC DISTRICT – A group of buildings, properties, or sites that are:

1. Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register;
2. Determined to be eligible for listing by the Keeper of the National Register of Historic Places in accordance with the National Historic Preservation Act;
3. Marked as historical sites by the Pennsylvania Historical and Museum Commission; and/or

4. Has been designated as such by Pl. 282, No. 167, as amended.

**(Amended February 7, 2022; Ordinance No. 2022-01)**

MICRO-WIRELESS FACILITY – A small wireless facility that (1) does not exceed two (2) cubic feet in volume and (2) has an exterior antenna no longer than eleven (11) inches. **(Amended February 7, 2022; Ordinance No. 2022-01)**

MUNICIPAL POLE – A utility pole owned, managed, or operated by or on behalf of the Township. **(Amended February 7, 2022; Ordinance No. 2022-01)**

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF) — All non-tower wireless communications facilities, including but not limited to, Antennae and related equipment. Non-Tower WCF shall not include support structures for Antennae and related equipment.

PERSONS — Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania; provided that Person does not include or apply to the Township or to any department or agency of the Township.

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

SUBSTANTIAL CHANGE or SUBSTANTIALLY CHANGE — A modification to an existing wireless communications facility substantially changes the physical dimensions of a tower or wireless support structure if it meets any of the following criteria:

- A. For wireless communications facilities outside the public rights-of-way, it increases the height of the facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed 20 feet, whichever is greater; for wireless communications facilities in the rights-of-way, it increases the height of the facility by more than 10% or 10 feet, whichever is greater;
- B. For communications towers outside the public rights-of-way, it protrudes from the edge of the tower by more than 20 feet, or more than the width of the tower structures at the level of the appurtenance, whichever is greater; for those

wireless communications facilities in the public rights-of-way, it protrudes from the edge of the structure by more than six feet;

- C. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- D. It entails any excavation of deployment outside the current site of the communications tower; or
- E. It does not comply with conditions associated with prior approval of construction or modification of the wireless communications facility unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.

**SMALL WIRELESS FACILITY (SWF)** — The equipment and network components, including antennas, transmitters, and receiver, used by a wireless provider that meets the following qualifications:

1. Each antenna associated with the deployment is no more than three (3) cubic feet in volume.
2. The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than twenty-eight (28) cubic feet.
3. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

**(Amended February 7, 2022; Ordinance No. 2022-01)**

**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.

**TOWER** — A self-supporting lattice tower, guy tower, monopole, or any other pole, that is constructed primarily to support an antenna for receiving and/or transmitting a wireless signal.

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)** — A Tower and its supporting antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. Distributed antenna system hub facilities are considered to be Tower-Based WCFs.

UNDERGROUND DISTRICT- A group of properties within the Township wherein the Township requires that all cable facilities and utility facilities, with the exception of municipal poles and attachments, are placed underground. **(Amended February 7, 2022; Ordinance No. 2022-01)**

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

WIRELESS COMMUNICATIONS FACILITY (WCF) — The Antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating FCC-licensed mobile telephone wireless communications services.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT) — Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public ROW or other Township owned land or property.

WIRELESS PROVIDER- A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications services in the Commonwealth of Pennsylvania that builds or installs wireless communications transmission equipment, wireless facilities, or wireless support structures and/or persons who provide wireless services. **(Amended February 7, 2022; Ordinance No. 2022-01)**

#### IV. General Requirements for All Tower-Based Wireless Communications Facilities.

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

1. Procedures.

a. Any applicant proposing construction of a new Tower-Based WCF outside the public Rights-of-Way shall submit plans to the Township for review by the Township staff and Planning Commissions and for approval by conditional use by the Township Board of Supervisors in accordance with the requirements of Part II, Article VII, § 415-147 “Conditional Uses” of the Code of Summit Township.

b. The applicant shall prove that it is licensed by the FCC to operate a Tower-Based WCF and that the proposed Tower-Based WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

2. Timing of Approval. 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, including an application fee in an amount specified by the Wireless Fee Schedule. If the Township receives an application for a Tower-Based WCF and such application

is not fully completed, then the Township shall promptly notify the applicant that the application is not complete and the time for the approval of such application shall not commence until a fully completed application is received by the Township.

3. Prohibited in Residential Districts. No Tower-Based WCF shall be located within a residential district or within two hundred (200) feet of a lot in residential use or a residential district boundary.
4. Development Regulations. Tower-based wireless communications facilities shall be developed in accordance with the following requirements:
  - a. Permitted Subject to Regulations. Any Tower-Based WCF that is either not mounted on any existing structure or is more than 25 feet higher than the structure on which it is mounted is permitted in certain zoning districts as a conditional use, subject to the restrictions and conditions prescribed herein and subject to the prior written approval of the Township. The Township Board of Supervisors may grant a conditional use after review of the Planning Commission and a public hearing before the Board of Supervisors. An applicant for a Tower-Based WCF must establish the following:
    - (i) Coverage and Capacity. An applicant for a Tower-Based WCF must demonstrate that a gap in wireless coverage and capacity exists and that the type of WCF and siting being proposed is the least intrusive means by which to fill the gap in wireless coverage and capacity. 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.
    - (ii) Collocation. That there is not suitable space on existing wireless service facilities or other wireless service facility sites or on other sufficient tall structure where the intended wireless service facility can be accommodated and function as required by its construction permit or license without unreasonable modification.
    - (iii) Good Faith Effort. If the applicant proposes to build a tower (as opposed to mounting the antenna on an existing structure), said applicant is required to demonstrate that they contacted the owners of all structures within a one mile radius of the site proposed, asked for permission to install the antenna on those structures and was denied for reasons other than economic ones. This would include

smokestacks, water towers, tall buildings, antenna support structures of other telecommunications companies, other communication towers (fire, police, etc.), and other tall structures. The Township Board of Supervisors may deny any application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.

(iv) Site Plan. A full site plan which shall include:

1. Written authorization from the property owner of the proposed Tower- Based WCF site.
2. A site plan that is drawn to scale and shows the following features: property boundaries; any tower guy wire anchors and other apparatus; existing and proposed structures; scaled elevation view; access road(s) location and surface material; parking area; fences; location and content of (any or warning) signs; exterior lighting specifications; landscaping plan; land elevation contours; existing land uses surrounding the site; proposed transmission building and/or other accessory uses with details; elevations; and proposed use(s).
3. A written report including: information describing the tower height and design; a cross-section of the structure; engineering specifications detailing construction of tower, base and guy wire anchorage; information describing the proposed painting and lighting schemes; information describing the tower's capacity, including the number and type of antennas that it can accommodate; radio frequency coverage including scatter plot analysis and the input parameters for the scatter plot analysis; all tower structure information to be certified by a licensed P.E.; and wireless telecommunications data to be certified by an appropriate wireless telecommunications professional.
4. All other uses ancillary to the Tower-Based WCF and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the Tower-Based WCF site unless



otherwise permitted in the zoning district in which the Tower-Based WCF site is located.

- b. Sole Use on a Lot. A Tower-Based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- c. Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
  - (i) Existing Use. The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications facility.
  - (ii) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower- Based WCF and guy wires, the equipment building, security fence, and buffer planting.
  - (iii) Minimum Setbacks. If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure), the minimum distance between the base of the support structure and any property line or right-of-way line shall be the largest of the following:
    - A. Fifty percent of antenna height in all zones except residential zones where the setback shall be 100% of antenna height.
    - B. The minimum front yard setback in the underlying zoning district.
    - C. Forty feet.

5. Collocation.

- a. An application for a new Tower-Based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building.
- b. Any applicant proposing construction of a new Tower-Based WCF outside the Rights-of-Way shall demonstrate to the satisfaction of the

Township Board of Supervisors, by written submission, that a good faith effort has been made to obtain permission to mount the Tower-Based WCF Antenna on an existing building or structure. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed Tower-Based WCF site be contacted and that the applicant certifies in writing to the Township Board of Supervisors that one (1) or more of the following reasons for not selecting such structure apply:

- (i) The proposed WCF and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at reasonable cost;
- (ii) The proposed WCF and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at reasonable cost;
- (iii) Such existing structure does not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function; and/or
- (iv) A commercially reasonable agreement cannot be reached with the owner(s) of such structure.

6. 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.
7. Wind and Ice. Any Tower-Based WCF structures shall be designed to withstand the effects of wind and ice according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
8. Height. Any Tower-Based WCF shall be designed at the minimum functional height. All Tower-Based WCF applicants must submit documentation to the

Township justifying the total height of the structure. In no case shall a WCF exceed a maximum height of two hundred (200) feet.

9. 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.
10. Maintenance. The following maintenance requirements shall apply:
  - a. Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
  - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
  - d. The Township reserves the authority to require the repainting of all Tower-Based Facilities where the painting of such facilities is not regularly maintained.
11. Radio Frequency Emissions. No Tower-Based WCF may, 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.
12. 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.
13. Lighting. Tower-Based WCF shall not be artificially lighted, except as required by law. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
14. 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.

15. Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
16. Inspection. No later than December of each odd-numbered year, the owner of the Tower-Based WCF shall have said WCF structure inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of Tower-Based WCFs and has demonstrated his/her expertise to the satisfaction of the Township. At a minimum, this inspection shall be conducted in accordance with the Tower Inspection Class checklist provided in the Electronics Industries Association (EIA) Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures. A copy of said inspection report and certification of continued use shall be provided to the Township by March 1 following the inspection. Any repairs advised by report shall be effected by the owner within sixty (60) calendar days after the report is filed with the Township.
17. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
18. 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 Ordinance.
19. Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - a. All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.
  - b. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities

and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

- c. Any unused portions of Tower-Based WCFs, including Antennas, shall be removed within six (6) months of the time of cessation of operations. The Township must approve all replacements of portions of a Tower-Based WCF previously removed.

20. Siting. No tower-based wireless communications facility shall be located, in whole or in part, within the right-of-way.

21. Notice. Upon receipt of an application for a Tower-Based WCF, the Township shall mail notice thereof to the owner or owners of every property zoned residential on the same street within one thousand (1,000) feet of the site of the proposed facility and of every property zoned residential not on the same street within two hundred (200) feet of the proposed facility.

22. Eligible Facilities Request.

- a. Tower-Based WCF Applicants proposing a modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying structure shall be required to obtain a zoning permit for construction from the Township.
- b. In order to be considered for the requisite permit, the Tower-Based WCF Applicant must submit an application to the Township in accordance with applicable permit and certificate policies and procedures enumerated as part of the Township's Zoning Permits; Certificates and Use of Occupancy.

23. Design Regulations.

- a. Any height extensions to an existing Tower-Based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
- b. The Tower-Based WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Township.

- c. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the Tower-Based WCF applicant's Antennae and comparable Antennae for future users.
- d. All utilities that are extended to the site of the Tower-Based WCF shall be placed underground.

24. Surrounding Environs.

- a. The Tower-Based WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Tower-Based WCF structure shall be preserved to the maximum extent possible.
- b. The Tower-Based 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.

25. Fence/Screen.

- a. A security fence having a maximum height of ten (10) feet, and a minimum height of eight (8) feet, shall completely surround any Tower-Based WCF, guy wires, or any building housing WCF equipment.
- b. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of eight (8) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.
- c. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

26. Accessory Equipment.

- a. Ground-mounted equipment associated to, or connected with, a Tower-Based WCF shall be underground or screened from public view using Stealth Technologies, as described above.
- b. All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

27. 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 commercially reasonable. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Township.
28. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Tower-Based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility. The easement shall be a minimum of twenty (20) feet in width and the access shall be paved to a width of at least ten (10) feet throughout its entire length.
29. Bond. Prior to the issuance of a permit, the owner of a Tower-Based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Township Solicitor, in an amount of \$75,000 to assure the faithful performance of the terms and conditions of this Ordinance. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Township and maintain the bond for the life of the respective facility.
30. Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any Tower-Based WCF based upon visual and/or land use impact.
31. Inspection by Township. The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the provisions of this 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.

**V. Non-Tower Wireless Facilities Outside the Rights-of-Way**

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

1. Procedures.
  - a. Any applicant proposing a Non-Tower WCF to be mounted on a building or any other structure shall submit detailed construction and elevation drawings indicating how the Non-Tower WCF will be mounted on the structure, for review by the Township staff and Planning Commissions and for approval by conditional use by the Township Board of Supervisors in accordance with the requirements of Part II, Article VII, § 415-147 “Conditional Uses” of the Code of Summit Township.
  - b. The applicant shall prove that it is licensed by the FCC to operate a Non-Tower WCF and that the proposed Non-Tower WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
2. Prohibited in Residential Districts. No Non-Tower WCF shall be located within a residential district or within two hundred (200) feet of a lot in residential use or a residential district boundary.
3. Development Regulations. Non-Tower WCFs shall be co-located on existing structures, such as existing buildings or Tower-Based WCFs subject to the following conditions:
  - a. Permitted Subject to Regulations. Non-Tower WCFs are permitted outside the public Rights-of-Way in certain zoning districts as a conditional use subject to the restrictions and conditions prescribed herein and subject to the prior written approval of the Township.
  - b. Review. The Township Board of Supervisors may grant a conditional use after review of the Planning Commission and a public hearing before the Township Board of Supervisors.
  - c. Height. Such Non-Tower WCF shall not exceed the maximum height permitted in the applicable zoning district.
  - d. Equipment building. If the Non-Tower WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
  - e. Fencing. A security fence with a maximum height of ten (10) feet, and a minimum height of eight (8) feet, shall surround any separate communications equipment building. Vehicular access to the



communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

4. Eligible Facilities Request.
  - a. Non-Tower WCF Applicants proposing a modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying structure shall be required to obtain a Zoning Permit from the Township Zoning Officer.
  - b. In order to be considered for the requisite permit, the Non-Tower WCF Applicant must submit an application to the Township in accordance with applicable permit and certificate policies and procedures enumerated as part of Zoning Permits, Certificates and Use of Occupancy.
5. Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any Non-Tower WCF based upon visual and/or land use impact.
6. Timing of Approval. All applications for Non-Tower WCFs shall be acted upon by the Township within ninety (90) days of the receipt of a fully completed application for the approval of such WCF, including an application fee in an amount specified by the Wireless Fee Schedule. If the Township receives an application for a Non-Tower WCF and such application is not fully completed, then the Township shall promptly notify the applicant that the application is not complete and the time for the approval of such application shall not commence until a fully completed application is received by the Township.
7. 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 Ordinance. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
8. Bond. Prior to the issuance of a permit, the owner of a Non-Tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in an amount of \$25,000 to assure the faithful performance of the terms and conditions of this Ordinance. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall

file a copy of the bond with the Township and maintain the bond for the life of the respective facility.

9. Design Regulations.

- a. Non-Tower WCFs shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Township.
- b. Non-Tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, unless the Non-Tower WCF applicant obtains a variance.
- c. All Non-Tower WCF applicants must submit documentation to the Township justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- d. Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.

10. 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.

11. Wind. Any Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).

12. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

13. Radio Frequency Emissions. No Non-Tower WCF may, 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.
14. Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
15. Inspection by Township. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this 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.
16. Maintenance. The following maintenance requirements shall apply:
  - a. The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township’s residents.
  - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
17. Upgrade, Replacement, Modification.
  - a. The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading, replacing, modifying, or repairing the WCF is permitted, so long as such upgrade, replacement, modification, or repair does not increase the overall size of the WCF or the number of Antennae.
  - b. Any material modification to a wireless telecommunication facility shall require a prior amendment to the original permit or authorization.
18. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- a. All abandoned or unused WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.
- b. If the WCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

**VI. Regulations Applicable to all Small Wireless Facilities.**

A. The following regulations shall apply to Small Wireless Facilities:

1. SWF Permit Requirements.

- a. SWF are permitted by administrative approval from the Township Zoning Officer in all Township zoning districts, subject to the requirements of this section subject to approval of a SWF Zoning Permit by the Township Zoning Officer.
- b. The Township shall permit wireless providers, with the permission of the owners of the structure and subsequent to the issuance of a proper SWF Zoning Permit, to:
  - (i) Collocate SWF within its right-of-way.
  - (ii) Replace an existing utility pole to install SWF within its right-of-way.
  - (iii) Install a new utility pole with attached SWF within its right-of-way.
- c. A wireless provider who wishes to install a SWF shall apply to the Township's Zoning Officer for a SWF Zoning Permit. The Township will develop and distribute a SWF Application for Zoning Permits. General permit applications shall not be permitted for SWF installation.
- d. Zoning Permits shall not be required for the following actions:
  - (i) Routine repair or maintenance work on existing SWF.
  - (ii) The replacement of existing SWF with substantially similar or smaller SWF.

- (iii) The installation of micro-wireless facilities that are placed on cables between existing utility poles.

2. SWF Zoning Permit Procedures.

- a. The Township's Board of Supervisors shall establish a SWF Zoning Permit Application fee by duly-adopted Resolution.
- b. The Township is obligated to inform a SWF applicant if their Zoning Permit Application is incomplete within ten (10) days of receipt of a Zoning Permit Application. The notice must specifically identify the missing information provided on the initial Zoning Permit Application. In the event that applicant corrects the errors in the Zoning Permit Application, the time period for rendering a decision on the Zoning Permit Application will reset.
- c. SWF Zoning Permits for the installation of SWF shall be valid for a one (1) year period, subject to extension or renewal at the Township's sole discretion.
- d. An applicant seeking to collocate multiple SWF within the Township may be permitted to file a consolidated Zoning Permit Application for collocation of multiple SWF in accordance with the following:
  - (i) The consolidated Zoning Permit Application shall not exceed twenty (20) SWF.
  - (ii) The denial of one (1) or more SWF in a consolidated Zoning Permit Application shall not delay processing of any other SWF in the same consolidated Zoning Permit Application,
  - (iii) A single applicant may not submit more than one (1) consolidated or twenty (20) individual Zoning Permit Applications within a thirty (30) day period.

3. Timing of Approval and Procedures for Denial.

- a. Within sixty (60) days of receipt of an application for Collocation of a SWF on an existing utility pole, the Township Zoning Officer shall make a final decision on whether to approve the Zoning Permit Application and shall notify the Applicant in writing of such decision.
- b. Within ninety (90) days of receipt of an application to replace a utility pole or install a new utility pole for SWF installation, the Township Zoning Officer shall make a final decision on whether to approve the

Zoning Permit Application and shall notify the Applicant in writing of such decision.

- c. In the event that the Township receives more than one (1) consolidated Zoning Permit Application or more than twenty (20) Zoning Permit Applications for SWF within a single forty-five (45) day period, the time periods above shall be extended to seventy-five (75) days and one hundred and five (105) days respectively.
- d. The Township Zoning Officer shall be permitted to deny a SWF Zoning Permit Application or a consolidated SWF Zoning Permit Application for SWF only if any of the following apply:
  - (i) The SWF materially interferes with the safe operation of traffic control equipment, sight lines, or clear zones for transportation or pedestrians, fails to comply with the Americans with Disabilities Act of 1990, as amended, or fails to comply with similar federal or Pennsylvania standards regarding pedestrian access or movement.
  - (ii) The SWF fails to comply with applicable codes.
  - (iii) The SWF fails to comply with the requirements under this Zoning Ordinance and/or the Small Wireless Facilities Deployment Act, as amended.
  - (iv) The applicant fails to submit a report by a qualified engineering expert which shows that the SWF will comply with applicable FCC regulations.
- e. In the event that the Township denies a SWF Zoning Permit Application, the Township must provide the applicant a notice of denial, including the basis for denial, within five (5) days of the decision.
- f. In the event that the Township denies a SWF Zoning Permit Application, the applicant may attempt to cure the deficiency and re-submit the Zoning Permit Application within thirty (30) days of the date of denial. Upon receiving the re-submitted application, the Township shall be given thirty (30) additional days to either accept the re-submitted Zoning Permit Application or deny the same.

4. SWF in the Township Right-of-Way.

- a. All SWF will be installed so as not to hinder travel, hinder public safety, or obstruct the legal use of the right-of-way of the Township and/or other authorized users.
- b. Each new SWF installed in the Township's right-of-way that shall be installed on an existing utility pole or a new utility pole shall be subject to the following:
  - (i) The installation of a SWF on an existing utility pole shall not extend more than five (5) feet above the existing utility pole.
  - (ii) If collocation on an existing utility pole cannot be achieved, a SWF may be installed on a new or replacement utility pole. The maximum permitted height of the utility pole and the installed SWF shall not be taller than fifty (50) feet above ground level.
  - (iii) A wireless provider may request a height limit waiver or variance in its Zoning Permit Application, with said request requiring the approval of the Zoning Hearing Board.
- c. The Board of Supervisors of the Township shall establish fees, by Resolution, for the use of its rights-of-way for the installation of SWF. Said fee shall not exceed Two Hundred and Seventy Dollars (\$270) unless the Township establishes the following:
  - (i) The Township's fee is a reasonable approximation of the costs to manage the right-of-way.
  - (ii) The Township's fee set by Resolution is reasonable.
  - (iii) The Township's fee is not discriminatory.
- d. A wireless provider shall repair any and all damage to the right-of-way or any other land that is disturbed or damaged directly by the activities of the wireless provider and/or their contractors during the installation of SWF.

5. Non-Conforming Wireless Support Structures. SWF shall be permitted to collocate upon non-conforming Tower-Based WCF and other non-conforming structures. Collocation of SWF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a Zoning District.

6. Historic Buildings, Historic Districts and Underground Districts.
  - a. As a condition of permitting an applicant to locate a SWF in a Historic District and/or on a Historic Building, the Township may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures. These measures will be identified on a case-by-case basis depending on the Zoning Permit Application as well as the nature of the Historic District or Historic Building. These measures shall not have the effect of prohibiting the applicant's technology or be considered a part of the SWF for purposes of size restrictions of SWF.
  - b. Wireless providers shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from placing or installing structures in the right-of-way in an Underground District if the Township:
    - (i) Requires all cable facilities and utility facilities, other than municipal poles and attachments, to be placed underground by a date certain that is three months prior to the submission of the Zoning Permit Application;
    - (ii) Does not prohibit the replacement of municipal poles in the Underground District; and
    - (iii) Permits wireless providers to seek a waiver of the underground requirements for the installation of a new utility pole to support SWF. Upon the submission of a request for a waiver of the Zoning Ordinance requirements for an Underground District, the Zoning Hearing Board will hold a public hearing and make a determination on said request.
7. Standard of Care. Any SWF 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, the Pennsylvania UCC, or to the industry standard applicable to the structure. Any SWF shall at all times be kept and maintained in good condition, order and repair by the wireless provider, so that the same shall not endanger the life of any person or any property in the Township.
8. Wind and Ice. All SWF 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), or to the industry standard applicable to the structure.

9. Radio Frequency Emissions. A SWF shall not, by itself or in conjunction with other WCFs or SWFs, generate radio frequency emissions in excess of the standards and regulations of the FCC.
10. Collocation on Municipal Poles.
  - a. The Township shall allow collocation on municipal poles using the process required under this Zoning Ordinance unless the SWF would cause structural and safety deficiencies to the municipal pole. In the case that structural and safety deficiencies are present on a municipal pole, the Township and the applicant will work together to provide make-ready work or modifications or replacements that are needed to accommodate the SWF.
  - b. In the event that the Township and applicant are required to provide make-ready work, modifications, or replacement of municipal poles in accordance with Section 10(a), the Township shall provide a good faith estimate for any make-ready work necessary to support the collocation and the fees shall be paid solely by the applicant. The make-ready work shall be completed within sixty (60) days of the acceptance of the good-faith estimate by the applicant.
11. Damages and Penalties for Installation.
  - a. In the event a wireless provider fails to repair any damages caused by the wireless provider during SWF installation after a thirty (30) day written notification by the Township, the Township may repair the damages and charge the wireless provider the reasonable documented cost of repairs at an amount not to exceed Five Hundred Dollars (\$500.00).
  - b. Failure to pay the penalty in Section 11(a) above may result in the Township suspending the offending wireless provider from receiving further SWF Zoning Permits for installation.
12. Graffiti. Any graffiti on a SWF or its utility pole shall be removed at the sole expense of the owner or the wireless provider within thirty (30) days of notification by the Township. Any graffiti on a municipal pole shall be removed by the Township, at its discretion.

13. Moratorium Prohibited. The Township may not institute a moratorium on filing, receiving, processing applications, or issuing Zoning Permits for the collocation or installation of SWF within the Township.
14. Relocation or Removal of SWF. In the event that a wireless provider is not in compliance with any of the provisions of the Small Wireless Facilities Deployment Act, or this Zoning Ordinance, the Township shall provide a Notice of Non-Compliance and give the wireless provider thirty (30) days to cure all noncompliance.
  - a. If a wireless provider fails to bring its facilities into compliance after thirty (30) days, the Zoning Officer may revoke the Zoning Permit and the wireless provider has sixty (60) days to remove their facilities from the Township from the date of revocation.
  - b. In the event that a wireless provider allows a Zoning Permit to expire, without extension or non-renewal, the wireless provider shall be accorded ninety (90) days to remove their facilities from the Township from the date of the Zoning Permit's expiration.
  - c. In the event that the Township's Zoning Officer revokes a Zoning Permit for a SWF, the wireless provider shall remove the SWF and any associated equipment, including, but not limited to, the utility pole and any support structures. Said removal shall occur ninety (90) days from the date of the Zoning Permit's expiration.
15. Applicability of SWFDA. In the event of a conflict between this Zoning Ordinance and the Small Wireless Facilities Deployment Act, at 53 P.S. §11704.1 et seq., as amended, the provisions of the Small Wireless Facilities Deployment Act will apply.

**(Amended February 7, 2022; Ordinance No. 2022-01)**

## **VII. Violations Applicable to All Wireless Facilities**

1. Penalties. Any Person violating any provision of this Ordinance shall be subject, upon finding by a magisterial district judge, to a penalty not exceeding five hundred dollars (\$500), for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Ordinance and any other remedy at law or in equity, the Township may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Ordinance.

2. Determination of Violation. In the event a determination is made that a Person has violated any provision of this Ordinance, such Person shall be provided written notice of the determination and the reasons therefore. Except in the case of an Emergency, the Person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided the Person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this Ordinance and/or federal and/or Pennsylvania law and regulations.

## VIII. Insurance and Indemnification of Wireless Facilities

1. Insurance. Each Person that owns or operates a wireless facility is required to purchase and maintain general liability insurance and property damage insurance, as specified herein:
  - a. Each Person that owns or operates a Tower-Based WCF shall provide the Board 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.
  - b. Each Person that owns or operates a Non-Tower WCF shall annually provide the Board 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.
  - c. Each Person that owns or operates a SWF shall annually provide the Board 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 SWF.
2. Indemnification. Each Person that owns or operates a Tower-Based WCF, a Non-Tower WCF, or a SWF 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 and/or SWF. Each Person that owns or operates a Tower-Based WCF, a Non-Tower WCF, or a SWF 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 the WCF and/or SWF. 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.

**(Amended February 7, 2022; Ordinance No. 2022-01)**

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