

**BOROUGH OF LANSDALE,  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOROUGH OF LANSDALE, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING ARTICLE XXXV OF THE ZONING ORDINANCE, RELATED TO COMMUNICATION TOWERS, SATELLITE DISHES AND ANTENNAS; TO ESTABLISH PROVISIONS GOVERNING THE SITING, DESIGN, PERMITTING, MAINTENANCE, AND USE OF WIRELESS COMMUNICATION FACILITIES AND SATELLITE DISHES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Lansdale Borough Council has enacted the Zoning Ordinance which contains, *inter alia*, provisions governing communication towers, satellite dishes and antennas in Lansdale Borough;

**WHEREAS**, the Pennsylvania Borough Code authorizes Borough Council to make regulations as may be necessary for the health, safety, morals, and general welfare of the Borough;

**WHEREAS**, Borough Council desires to add provisions to the Zoning Ordinance, governing the siting, design, permitting, maintenance, and use of wireless communication facilities and satellite dishes, in the interest of the general welfare of the Borough;

**NOW, THEREFORE**, be it, and it is hereby **ORDAINED** by the Lansdale Borough Council, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

**SECTION I. AMENDMENT TO LANSDALE BOROUGH CODE**

Article XXXV of Chapter 122, the Zoning Ordinance of the Borough of Lansdale, is hereby deleted in its entirety, and amended as follows:

**§ 122-3500. Title.**

This Article shall be known as “Wireless Communication Facilities.”

**§ 122-3501. Purpose.**

1. To establish uniform standards for the siting, design, permitting, construction, operation, inspection, maintenance, repair, modification, removal and replacement of wireless communications facilities in recognition of the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); the federal Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”) Pub. L. No. 112-96, 126 Stat. 156 (2012), and FCC regulations promulgated thereunder by the Federal Communications Commission (“FCC”), including the FCC's Report and Order of October 21, 2014, FCC 14-153 (rel. Oct. 21, 2014); and the Pennsylvania Wireless Broadband Collocation Act (“Act 191”), 53 P.S. § 11702.1 *et seq.* in the Borough;
2. To establish standards for satellite dishes in accordance with FCC rules and regulations, while minimizing their visual impact;
3. To plan for, and accommodate the managed deployment of infrastructure that is necessary to accommodate the wireless communications needs of the Borough’s residents, businesses and

emergency service providers, while balancing the benefit of wireless communications facilities in providing high quality communications service and enhancement to its residents, businesses and emergency service providers, and the Borough's obligation to protect public safety, through the standards set forth in the following provisions.

**§ 122-3502. Definitions.**

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

**ACCESSORY EQUIPMENT.** Any equipment serving or being used in conjunction with a wireless telecommunications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

**AERIAL FACILITIES.** Poles, wires, cables, equipment, and other facilities located above the surface of the ground, including their underground supports and foundations. Such term does not include private driveways, newspaper vending machines, street banners, canopies or other minor obstructions located in the rights-of-way.

**ANTENNA.** Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services. In § 122-3511, an antenna shall include private residence-mounted satellite dishes, television antennas, and amateur radio equipment including, without limitation, ham or citizen band radio antennas.

**ANTENNA HEIGHT.** The vertical distance measured from the base of the wireless support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**BASE STATION.** A station at a specified site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

- A. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services (i.e., wifi) and fixed wireless services (i.e. point to point microwave transmissions) such as microwave backhaul.
- B. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- C. The term includes any structure other than a tower that, at the time the relevant application is filed with the Borough under this subpart, supports or houses equipment described in subparagraphs (A) and (B) of this section, that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- D. The term does not include any structure that, at the time the relevant application is filed with the Borough under this section, does not support or house equipment described in subparagraphs (A) or (B) of this section.

**BOROUGH.** Borough of Lansdale, Montgomery County, Pennsylvania.

**BOROUGH CODE.** The Code of the Borough of Lansdale, Montgomery County, Pennsylvania.

**BOROUGH ENGINEER.** The person engaged by the Borough to perform engineering services on behalf of the Borough.

**CO-LOCATION.** The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure not classified as a wireless support structure, that can support the placement or installation of wireless telecommunications facilities if approved by the Borough. The term includes the placement, replacement or modification of accessory equipment within a previously approved equipment compound.

**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 SUPPORT STRUCTURE.** Any tower or base station, existing at the time the relevant application is filed.

**EMERGENCY.** A condition that:

- A. Constitutes a clear and immediate danger to the health, welfare, or safety of the public; or
- B. Has caused, or is likely to cause, facilities in the rights-of-way to be unusable, and result in loss of the services provided.

**EQUIPMENT COMPOUND.** An area surrounding, or adjacent to a wireless support structure within which base stations, power supplies or accessory equipment are located.

**FAA.** Federal Aviation Administration.

**FCC.** Federal Communications Commission.

**GUY or GUYED.** A tensioned cable providing stability to a wireless communication tower. A guyed tower is anchored by cables.

**MODIFICATION or MODIFY.** The improvement, upgrade or expansion of existing wireless telecommunications facilities or base stations on an existing wireless support structure or the improvement, upgrade or expansion of the wireless telecommunications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.

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

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (“NON-TOWER WCF”).** Wireless communications facilities located on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar

structures that do not require the installation of a new tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.

**PERSON(S).** 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 Borough, or to any department or agency of the Borough.

**PUBLIC UTILITIES COMMISSION or PUC.** The Commonwealth administrative agency, or lawful successor thereto, authorized to regulate and oversee public utilities and telecommunications providers and telecommunications services in the Commonwealth of Pennsylvania, to the extent provided by law.

**RELATED EQUIPMENT.** Any piece of equipment related to, incident to, or necessary for, the operation of a Tower-Based or Non-Tower WCF. Related equipment includes, but is not limited to generators and base stations.

**REPLACEMENT.** The replacement of existing wireless telecommunications facilities on an existing wireless support structure or within an existing equipment compound, due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless telecommunications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.

**RIGHT-OF-WAY (“ROW”) or PUBLIC RIGHT-OF-WAY.** The surface and space in, on and above any real property in which the Borough has an interest in law or in equity, including, but not limited to, any public street, boulevard, avenue, road, highway, easement, freeway, alley, court, or any other place, other than real property owned in fee by the Borough.

**SITE.** For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower, and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure, and to other transmission equipment already deployed on the ground.

**STEALTH TECHNOLOGY.** Camouflaging methods applied to wireless communications towers, antennas 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 antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, flag poles and light poles.

**STREET.** The surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right-of-way now or hereafter held by the Borough, which shall entitle the grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, duct, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a system.

**SUBSTANTIALLY CHANGE.**

- A. Any increase in the height of a wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or
- B. Any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height, or by the height of one additional antenna array.

**TELECOMMUNICATIONS.** The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS FACILITIES.** The plant, equipment and property within the Borough, used to transmit, receive, distribute, provide or offer telecommunications service.

**TELECOMMUNICATIONS PROVIDER.** A person who provides telecommunications service over telecommunications facilities.

**TELECOMMUNICATIONS SERVICE.** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**TELECOMMUNICATIONS SYSTEM.** A system that offers telecommunications service.

**TOWER.** Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services (i.e. wifi) and fixed wireless services (i.e. point to point microwave transmission) such as microwave backhaul, and the associated site. A building, water tower, electrical transmission tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure designed and constructed for a sole or primary purpose other than supporting any FCC-licensed or authorized antennas and their associated facilities, shall not be considered a tower.

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (“TOWER-BASED WCF”).** Wireless communications facilities that include the installation of a new tower to support the transmission equipment. A WCF that requires the replacement of an existing structure (i.e. building, water tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure) to support the weight of a WCF is not considered a new Tower-Based WCF.

**UNDERGROUND FACILITIES.** Utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for aerial facilities.

**WIRELESS.** Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, personal communications service (“PCS”), microwave, satellite, or radio signals.

**WIRELESS COMMUNICATIONS FACILITY (“WCF”).** The set of equipment and network components, including antennas, transmitters, receivers, base stations, cabling and accessory equipment,

used to provide wireless data and telecommunications services. The term shall not include the wireless support structure.

**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 Borough-owned land or property.

**WIRELESS SUPPORT STRUCTURE.** A freestanding structure, such as a guyed or self-supporting monopole or tower, electrical transmission tower, water tower, buildings, light poles, utility poles, traffic signals and other similar structures, that could support the placement or installation of wireless telecommunications facilities if approved by the Borough.

**§ 122-3503. General Requirements for All Wireless Communications Facilities.**

- A. Standard of Care. All WCFs 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.
- B. Maintenance. All WCFs 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. The following maintenance requirements shall apply:
  - (1) All WCFs shall be fully automated and unattended on a daily basis, and shall be visited only for maintenance or emergency repair.
  - (2) Such maintenance shall be performed to ensure the upkeep of the facility, in order to promote the safety and security of the Borough’s residents.
  - (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- C. Wind. All WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-G, as amended).
- D. Aviation Safety. All WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- E. Public Safety Communications. No WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- F. Radio Frequency Emissions. No WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of FCC standards and regulations, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields,” as amended.

- G. Noise. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards, under state law and the Borough Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- H. Replacement, Co-Location, or Modification.
- (1) Notwithstanding the requirements for all Tower-Based WCFs and Non-Tower WCFs set forth in this Article, an application for replacement, co-location, or modification of a previously approved WCF or wireless support structure, shall be reviewed in conformance with the Borough's building permit requirements, including requirements applicable to the added structural loading of the proposed antennas and accessory equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, or review beyond the initial zoning or land use approvals issued for the previously approved wireless support structure or WCF, provided there is no substantial change.
  - (2) Timing of Approval. Within thirty (30) calendar days of the date that an application for co-locations that do not substantially change the height of the underlying support structure is filed with the Borough, the Borough shall notify the applicant in writing, of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Borough shall make its final decision regarding whether to approve or deny the application, and shall advise the applicant in writing, of such decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the application shall not be counted toward the Borough's sixty (60) day review period.
  - (3) Replacement of WCFs on existing wireless support structures, or within existing equipment compounds may be performed by the applicant without obtaining building permits or zoning relief from the Borough.
  - (4) Any substantial change to an existing Tower-Based WCF shall require approval from the Zoning Hearing Board, in accordance with the terms of this Article.
  - (5) Mounting. An applicant proposing to mount a Non-Tower WCF on a building or any other structure, shall submit detailed construction and elevation drawings, indicating how the WCF will be mounted on the existing structure, for review by the Borough, for compliance with the Borough's Building Code.
- I. Indemnification. Each person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, 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 Borough 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.

- J. Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough 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 Article. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- K. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of WCF, as well as related inspection, monitoring and related costs.
- L. Historic Buildings or Districts. No WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or the official historic structures and/or historic districts list maintained by the Borough, or that has been designated by the Borough as being of historic significance.

**§ 122-3504. General Requirements for All Non-Tower Wireless Communications Facilities.**

- A. Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones, subject to the restrictions and conditions prescribed below, and subject to applicable permitting by the Borough.
- B. Prohibited on Certain Structures. Commercial Non-Tower WCFs shall not be located on single-family detached residences, single-family attached residences, or any accessory residential structure.
- C. Discontinuation, Abandonment, and Removal. In the event that use of a Non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use, and the date when the use shall be discontinued. Unused or abandoned WCFs or portions thereof, shall be removed as follows:
  - (1) All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site, unless a time extension is approved by the Borough.
  - (2) If the WCF or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough, and the cost of removal assessed against the owner of the WCF.
- D. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Borough, the Borough shall notify the applicant in writing, of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Borough shall make its final decision regarding whether to approve or deny the application, and shall advise the applicant in writing, of such decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the application shall not be counted toward the Borough's ninety (90) day review period.
- E. Insurance. Each person that owns or operates a Non-Tower WCF, shall provide the Borough 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 amount of \$ 1,000,000 per

occurrence covering the Non-Tower WCF.

- F. Applicants proposing the modification of an existing Non-Tower WCF that does not substantially change the physical dimensions of the wireless support structure to which it is attached, shall obtain a building permit from the Borough.
- G. In addition to the requirements set forth in subsections A-F of this Section, the following requirements shall apply to all Non-Tower WCFs that substantially change the physical dimensions of the wireless support structure to which they are attached:
  - (1) Applicants proposing the construction of a new Non-Tower WCF, or the modification of an existing Non-Tower WCF, either of which substantially changes the wireless support structure, shall first obtain a building permit from the Borough. After receipt of the permit application, the Borough shall determine whether zoning relief is necessary under the Borough Code.
  - (2) Financial Security. Prior to the issuance of a permit, the owner of each individual Non-Tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain financial security acceptable to the Borough, in the amount of \$25,000, for each individual Non-Tower WCF, to assure the faithful performance of the terms and conditions of this Article. Borough Council may amend this amount from time to time, as it sees fit. The financial security shall provide that the Borough may recover from the principal and surety, any and all compensatory damages incurred by the Borough for violations of this Article, after reasonable notice and opportunity to cure. The owner shall file a copy of the financial security with the Borough.
  - (3) Notice. Upon submission of an application for a Non-Tower WCF that substantially changes the physical dimensions of the wireless support structure, the applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The applicant shall provide proof of the notification to the Borough.

**§ 122-3505. Non-Tower Wireless Communications Facilities Located Outside the Rights-of-Way.**

The following additional regulations shall apply to Non-Tower WCFs located outside the ROW, that substantially change the wireless support structure to which they are attached:

- A. Special Exception. If co-location of the Non-Tower WCF is not technologically feasible, the Applicant shall apply to the Zoning Hearing Board for a special exception.
- B. 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:
  - (1) Such WCF does not exceed the lesser of a total maximum height of fifteen (15) feet, or the maximum height permitted in the underlying zoning district. If the planned Non-Tower WCF exceeds this height specification, the WCF applicant shall obtain a variance.
  - (2) If the WCF applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
  - (3) A security fence of not less than six (6) feet in height, 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.

C. Design Regulations.

- (1) 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 Borough.
- (2) Non-Tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use permit.
- (3) All Non-Tower WCF applicants must submit documentation to the Borough, justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- (4) Antennas, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
- (5) Noncommercial Usage Exemption. The design regulations enumerated in this Section, shall not apply to direct-broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.

D. Removal, Replacement, Modification.

- (1) The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the number of antennas.
- (2) Any material modification to a WCF shall require a prior amendment to the original permit or authorization.

E. Visual or Land Use Impact. The Borough 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.

F. Inspection. The Borough reserves the right to inspect any WCF, to ensure compliance with the provisions of this Article, and any other provisions found within the Borough Code, or state or federal law. The Borough 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.

**§ 122-3506. Non-Tower Wireless Communications Facilities Located in the Rights-of-Way.**

- A. Co-Location. Non-Tower WCFs in the ROW, shall be co-located on existing poles, such as existing utility or light poles. Co-located facilities shall be permitted by right. If co-location is not technologically feasible, the Applicant shall locate its Non-Tower WCFs on existing poles or structures that do not already act as wireless support structures. Applicants shall certify that the proposed installation will not exceed the structural capacity of the building, or other structure upon which the Non-Tower WCF is co-located.
- B. Right-of-Way Permit. Applicants must obtain a ROW permit, pursuant to the Borough's Rights-of-Way Ordinance.

- C. Compensation for ROW Use. In addition to permit fees as described above, every Non-Tower WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough'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 Borough. The owner of each Non-Tower WCF shall pay an annual fee to the Borough to compensate the Borough for its costs incurred in connection with the activities described above. The annual ROW management fee for Non-Tower WCFs shall be determined by the Borough and authorized by resolution of Borough Council, and shall be based on the Borough's actual ROW management costs as applied to such Non-Tower WCF.
- D. Special Exception. Applicants that propose to locate Non-Tower WCFs such as antennas, on existing structures that do not already support a WCF, shall apply to the Zoning Hearing Board for a special exception.
- E. Design Requirements.
- (1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
  - (2) Antennas and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- F. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.
- G. Equipment Location. Non-Tower WCFs 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 Borough. In addition:
- (1) In no case, shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb, or, in the absence of a curb, the edge of the pavement.
  - (2) Ground-mounted equipment shall be located underground. In the event that an applicant can demonstrate, to the satisfaction of the Borough Engineer, that ground-mounted equipment cannot be underground, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
  - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
  - (4) Any graffiti on the WCF or accessory equipment, shall be removed at the sole expense of the owner, within ten (10) business days of notice of the existence of the graffiti.

(5) Any proposed underground vaults related to Non-Tower WCFs, shall be reviewed and approved by the Borough.

H. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough 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 Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

(1) The construction, repair, maintenance or installation of any Borough or other public improvement in the ROW;

(2) The operations of the Borough or other governmental entity in the ROW;

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

(4) An emergency as determined by the Borough.

I. Visual or Land Use Impact. The Borough retains the right to deny an application for the construction or placement of a Non-Tower WCF for numerous factors, which include, but are not limited to, design, and visual and/or land use impact.

**§ 122-3507. General Requirements for All Tower-Based Wireless Communications Facilities.**

A. Notice. Upon submission of an application for a Tower-Based WCF, the applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The applicant shall provide proof of the notification to the Borough.

B. Permitted by Special Exception. Any applicant proposing the construction of a new Tower-Based WCF, or the modification of an existing Tower-Based WCF, which increases the overall height of such WCF, shall apply to the Zoning Hearing Board for a special exception.

C. Co-Location and Siting. An application for a new Tower-Based WCF shall not be approved, unless the Borough finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. The applicant shall demonstrate that it contacted the owners of structures, buildings, and towers within a one quarter (1/4) of a mile radius of the proposed site, sought permission to install an antenna on those structures, buildings and towers, and was denied for one of the following reasons:

(1) The proposed antenna and related equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost;

(2) The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower, and the interference cannot be prevented at a reasonable cost;

(3) Such existing buildings, structures, or towers do not have adequate location, space, access or

height, to accommodate the proposed equipment or to allow it to perform its intended function;

- (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- D. **Gap in Coverage.** An applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area, and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in coverage shall be a factor in the Borough's decision to grant or deny an application for Tower-Based WCFs.
- E. **Additional Antennas.** As a condition of approval for all Tower-Based WCFs, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate antennas on its Tower-Based WCF, where technologically and economically feasible. The owner of a Tower-Based WCF shall not install any additional antennas without obtaining prior written approval from the Borough.
- F. **Siting.** No Tower-Based WCF shall be sited or constructed within 1,500 feet of any other Tower-Based WCF in the Borough.
- G. **Height.** Any Tower-Based WCF shall be designed at the minimum functional height. All Tower-Based WCF applicants shall submit documentation to the Borough, justifying the total height of the structure. The maximum total height of any Tower-Based WCF, not located in the public ROW, shall not exceed one hundred (100) feet, as measured vertically from the ground level, to the highest point on the structure, including antennas and subsequent alterations. Equipment buildings, cabinets, and accessory structures shall not exceed fifteen (15) feet in height.
- H. **Related Equipment.** Any telecommunication equipment building, or any other structure associated with a Tower-Based WCF, shall meet the height and setback requirements for principal buildings in the zoning district in which the building is located. When a zoning district contains more than one set of setback requirements, the largest setback requirement shall apply.
- I. **Signs.** All Tower-Based WCFs shall contain a sign in a readily visible location, identifying the name and phone number of a party to contact in the event of an emergency. Absent any controlling FAA or FCC regulations, no additional signage shall be permitted.
- J. **Lighting.** No Tower-Based WCF shall be artificially lighted, except when required by the FAA. 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.
- K. **Appearance.** Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color, to harmonize with the surroundings.
- L. **Timing of Approval.** Within thirty (30) calendar days of the date that an application for a Tower-Based WCF is filed with the Borough, the Borough shall notify the applicant in writing, of any information that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within one hundred and fifty (150) calendar days of the receipt of a fully completed application for approval of such Tower-Based WCF, and the Borough shall advise the applicant of its decision, in writing. If additional information was requested by the Borough

to complete an application, the time required by the applicant to provide the application shall not be counted toward the Borough's one hundred and fifty (150) day review period.

- M. 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 Article.
- N. Discontinuation, Abandonment, and Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use, and the date when the use shall be discontinued. Unused or abandoned WCFs or portions thereof, shall be removed as follows:
- (1) All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site, unless an extension of time is approved by the Borough.
  - (2) If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough, and the cost of removal assessed against the owner of the WCF.
  - (3) Any unused portions of Tower-Based WCFs, including antennas, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a previously removed Tower-Based WCF.
- O. FCC License. Each person that owns or operates a Tower-Based WCF, shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- P. Insurance.
- (1) Each person that owns or operates a Tower-Based WCF greater than forty (40) feet in height, shall provide the Borough 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.
  - (2) Each person that owns or operates a Tower-Based WCF forty (40) feet or less in height, shall provide the Borough 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 Tower-Based WCF.
- Q. Plans and Drawings. All plans and drawings for a tower and antennas, shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- R. Financial Security. Prior to the issuance of a permit for the construction or placement of a Tower-Based WCF, the applicant shall provide financial security to the Borough, sufficient to guarantee the removal of the Tower-Based WCF. Said financial security shall remain in place, until removal of the Tower-Based WCF.

**§ 122-3508. Tower-Based Wireless Communications Facilities Located Outside the Rights-of-Way.**

A. Development Regulations.

- (1) Location. No Tower-Based WCF shall be located within five hundred (500) feet of a lot in residential use, or a residential district boundary.
  - a) The following regulations shall apply to Tower-Based WCFs greater than forty (40) feet in height:
    - i. Such Tower-Based WCFs are permitted by right, in the following zoning Districts, subject to Section § 122-3508A(4)(b) of this Article:
      - a. Industrial
      - b. Business (B-2)
      - c. Commercial
    - ii. Such Tower-Based WCFs shall not be located in, or within one hundred and fifty (150) feet of any area in which utilities are underground.
  - b) In accordance with the provisions of this Article, the following regulations shall apply to Tower-Based WCFs forty (40) feet or less in height:
    - i. Such Tower-Based WCFs shall be permitted in the following Districts:
      - a. Limited Professional Office
      - b. Professional Office A
      - c. Professional Office B
    - ii. Such Tower-Based WCFs shall not be located in the front façade of any structure.
- (2) Site Requirements. A Tower-Based WCF may be located as permitted by District regulations, subject to all of the conditions listed in this Article.
- (3) Sole Use on a Lot. A Tower-Based WCF shall not be permitted as a sole use on a lot.
- (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 communications facility.
  - 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 forty (40) feet in height.
  - c) Minimum Setbacks. The Tower-Based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no Tower-

Based WCF shall be located within five hundred (500) feet of a lot in residential use, or a residential district boundary.

B. Design Regulations.

- (1) The Tower-Based WCF 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 Borough.
- (2) Any height extensions to an existing Tower-Based WCF, shall require prior approval of the Borough. The Borough 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 Borough.
- (3) 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. Surrounding Environs.

- (1) The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure, shall be preserved to the maximum extent possible.
- (2) Soil Report. The WCF applicant shall submit a soil report to the Borough prior to construction, complying with the standards of geotechnical investigations (ANSI/EIA-222-G, as amended), to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for any guy wires.

D. Fence/Screen.

- (1) A security fence having a minimum height of six (6) feet, shall completely surround any Tower-Based WCF, as well as guy wires, or any building housing WCF equipment.
- (2) Landscaping shall be installed to screen and buffer the tower, and any ground level features, such as an equipment building, from adjacent properties.
- (3) The WCF applicant shall submit a landscape plan for review and approval by the Borough Planning Commission, for all proposed screening.

E. Accessory Equipment.

- (1) Ground-mounted equipment associated with, or connected to, a Tower-Based WCF, shall be underground. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Borough Engineer, then the ground-mounted equipment shall be screened from public view, using stealth technologies as described above.
- (2) 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.

F. Vehicular Access.

- (1) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access, to all Tower-Based WCFs located outside of the ROW.
- (2) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- (3) Where possible, access driveway construction shall at all times minimize ground disturbance, and the cutting of vegetation.
- (4) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
- (5) An applicant shall present documentation to the Borough, that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
- (6) Any required access easement shall be a minimum of twenty (20) feet in width, and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least ten (10) feet throughout its entire length.
- (7) Vehicular access to all WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.

**§ 122-3509. Tower-Based Wireless Communications Facilities Located in the Rights-of-Way.**

A. Prohibited in Underground Utility Areas.

- (1) Tower-Based WCFs forty (40) feet or less in height shall only be permitted in the following Districts:
  - a) Limited Professional Office
  - b) Professional Office A
  - c) Professional Office B
- (2) Such Tower-Based WCFs shall not be located in the front façade of any structure.

B. Right-of-Way Permit. Applicants must obtain a ROW permit, pursuant to the Borough's Rights-of-Way Ordinance.

C. Compensation for ROW use. In addition to permit fees as described above, every Tower-Based WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough'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 Borough. The owner of each Tower-Based WCF shall pay an annual fee to the Borough to compensate the Borough for its costs incurred in connection with the activities described above. The annual ROW management fee for Tower-Based WCFs shall be determined by the Borough and authorized by resolution of Borough Council, and shall be based on the Borough's actual ROW management costs as applied to such Tower-Based WCF.

- D. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCFs in the ROW, based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough, and the requirements of the Public Utility Code.
- E. Equipment Location. Tower-Based WCFs 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 Borough. In addition:
- (1) In no case, shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb, or, in the absence of a curb, the edge of the pavement.
  - (2) Ground-mounted equipment shall be located underground. In the event that an applicant can demonstrate, to the satisfaction of the Borough Engineer, that ground-mounted equipment cannot be underground, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
  - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
  - (4) Any graffiti on the tower, or on any accessory equipment shall be removed at the sole expense of the owner, within ten (10) business days of notice of the existence of the graffiti.
  - (5) Any proposed underground vaults related to Tower-Based WCFs, shall be reviewed and approved by the Borough.
- F. Design Regulations.
- (1) The Tower-Based WCF 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 Borough.
  - (2) Tower-Based WCFs in the public ROW shall not exceed forty (40) feet in height.
  - (3) Any height extensions to an existing Tower-Based WCF shall require prior approval of the Borough, and shall not increase the overall height of the Tower-Based WCF to more than forty (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.
- G. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary, or such shorter period in the case of an emergency, an owner of a Tower-Based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

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

**§ 122-3510. Requirements for Commercial Satellite Dishes and Antennas.**

- A. A satellite dish, or antenna for commercial purposes is permitted only in the following Districts: Professional Office A, Professional Office B, Limited Professional Office (LPO), Commercial, and Industrial. Commercial dishes and antennas include, but are not limited to, the following: fixed-point microwaves used by telephone or other companies; two-way radio from a base to land-mobile antennas (such as radio-dispatched taxis); commercial AM and FM radio antennas; commercial UHF and VHF television antennas; and antennas and dishes used for restaurants, offices, industries or other business. Wireless communication facilities are specifically excluded.
  - (1) An antenna up to eight feet in height is permitted, and no site plan shall be required.
  - (2) An antenna more than eight feet in height is permitted by special exception, and a site plan shall be required.
- B. No dish or antenna shall be located between the building and street line. The dish or antenna shall be installed in the location that will best shield the view of the dish or antenna from the street, or from neighboring properties.
- C. No dish or antenna shall be permitted within that portion of a yard required to be a landscaped buffer area, by any provision of this Article.
- D. No ground-mounted satellite dish shall exceed eight feet in height.
- E. Setbacks for all satellite dishes and antennas shall be as follows:
  - (1) If the satellite dish is mounted on the ground, the building setbacks required by the underlying zoning district shall apply, except that in no case shall the setbacks be less than the height of the antenna or five feet, whichever is larger.
  - (2) If the satellite dish or antenna is mounted on the roof, it shall be no less than five feet from any property line or party wall.

**§ 122-3511. Requirements for Private, Non-Commercial Satellite Dishes and Antennas.**

- A. A private noncommercial satellite dish (hereinafter referred to as a “dish”), or noncommercial radio and television antenna is permitted in any zoning district according to the provisions of this Section, and are only permitted as an accessory use. Private noncommercial uses include dishes and antennas for home use, ham radio, citizen band (CB) radio and two-way or one-way radio for public safety. Fixed-point microwaves used by telephone or other companies, two-way radio from a base to land-mobile antennas (such as radio-dispatched taxis), commercial AM and FM radio

antennas, commercial UHF and VHF television antennas and cellular communications antennas are specifically excluded. No dish or antenna may be used for commercial purposes, if it is located in a residential district.

- (1) A dish or antenna up to three and a half (3.5) feet in diameter, and three and a half (3.5) feet in height is permitted, and no site plan shall be required.
  - (2) A dish or antenna more than three and a half (3.5) feet in diameter, and three and a half (3.5) feet in height, is permitted by special exception, and a site plan shall be required.
- B. No dish or antenna shall be located between the building and the street line. If roof mounted, the dish or antenna shall be located on the rear portion of the building. In general, the dish or antenna shall be installed in the location that will best shield the view of the dish or antenna from the street and from neighboring properties.
- C. No dish or antenna shall be permitted within that portion of a yard required to be a landscaped buffer area, by any provision of this Article.
- D. No dish shall exceed six (6) feet in diameter. No roof-mounted dish shall project more than three (3) feet from the roof. No ground-mounted dish shall exceed six (6) feet in height.
- F. Setbacks for all satellite dishes and antennas shall be as follows:
- (1) If the satellite dish is mounted on the ground, the building setbacks required by the underlying zoning district shall apply, except that in no case shall the setbacks be less than the height of the antenna or five (5) feet, whichever is larger.
  - (2) If the satellite dish or antenna is mounted on the roof, it shall be no less than five (5) feet from any property line or party wall.
- G. Relief from the requirements in subsections B-F of this Section, may be obtained upon presenting proof to the Borough Engineer, that the requirements prevent reception of an acceptable quality signal, or impose unreasonable expense or delay.

## **SECTION II. SEVERABILITY**

In the event that any section, sentence, clause, or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

## **SECTION III. REPEALER**

All ordinances or resolutions or parts thereof inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**SECTION IV. EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after its approval as required by the law.

**ORDAINED AND ENACTED** by the Borough Council of the Borough of Lansdale, Montgomery County, Pennsylvania this \_\_\_\_ day of \_\_\_\_\_, 2017.

**LANSDALE BOROUGH COUNCIL**

By: \_\_\_\_\_  
**Denton Burnell**  
Council President

Attest: \_\_\_\_\_  
**Jacob I. Ziegler**  
Borough Secretary

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2017

DRAFT