

Spring Township Centre County, PA

Zoning Ordinance Amendment

Ordinance No. __-18

An Ordinance of the Township of Spring, Centre County, PA, amending Chapter 27 (Zoning Ordinance of Spring Township, Adopted _____, Ordinance Number 20__-__), amending and replacing Conditional Use Criteria – Communications Towers regulations.

BE IT ENACTED and ORDAINED by the Board of Supervisors of Spring Township, Centre County, PA, and it is hereby enacted and ordained by the Authority of the same as follows:

Section 908: CONDITIONAL USE CRITERIA – WIRELESS COMMUNICATION FACILITIES.

1. Intent. The Wireless Communication Facilities (WCFs) regulations are intended to achieve the following:
 - A. To provide a competitive and wide range of communications services;
 - B. To encourage the shared use of existing communication towers, buildings and structures;
 - C. To ensure compliance with federal and state regulations;
 - D. To promote the health, safety and welfare of Township residents and businesses with respect to wireless communications facilities;
 - E. To address modern and developing technologies including, but not limited to, distributed antenna systems, data collection units, cable Wi-Fi, and other communications facilities;
 - F. To establish procedures for design, siting, construction, installation, maintenance and removal of both tower-based and attached wireless communications facilities in the Township, including facilities both inside and outside of the public rights-of-way; and
 - G. To protect Township residents and businesses 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.
2. General Requirements. In addition to all other applicable regulations of this chapter, Wireless Communications Facilities (WCFs) shall be regulated as follows:
 - A. General. The following regulations shall apply to all Wireless Communications Facilities, regulations specific:

- (1) Standard of Care. Any 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. Any 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 in the Township.
- (2) Wind. Any WCF structures shall be designed to withstand the effects of wind according to the standards designed by the ANSI, as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry.
- (3) 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.
- (4) Maintenance. The following maintenance requirements shall apply.
 - (a) Any WCFs 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 and activities shall utilize the best available technology for preventing failures and accidents.
 - (d) Any graffiti on the WCF or 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) Radio Frequency Emissions. No WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the Federal Communications Commission (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. The Applicant shall provide, upon request, a statement from a qualified licensed and professional registered engineer that the Non-Ionizing Electromagnetic Radiation (NIER) emitted from the WCF, when measured in conjunction with the emissions from all communications antennas on the tower, does not result in an exposure at any point on or outside such facility that exceeds the lowest applicable exposure standards established by the FCC or the ANSI.

- (6) Historic Buildings or Districts. No WCF may be located on or within two hundred (200) feet of a site that is listed on the historic register or in an officially designated state or federal historic district.
- (7) Identification and Signs. All WCFs shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township. The notice shall not exceed two (2) square feet in gross surface area and shall be maintained by the contact party. No other signs or forms of advertisement shall be permitted on the WCF and related equipment except for "No Trespassing" signs placed on security fencing or related equipment.
- (8) Lighting. All WCFs shall not be artificially lighted, except as required by the Federal Aviation Administration and as may be approved by the Township. 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. No flag that requires lighting shall be located on the structure.
- (9) Noise. All WCFs shall be operated and maintained in accordance with manufacturer's specifications so as not to produce noise in excess of applicable noise standards under state law, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only, not to exceed sixty (60) days total within a calendar year.
- (10) Aviation Safety. All WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (11) 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 WCFs 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 WCFs shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (12) Non-Conforming Uses. Non-conforming WCFs that 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.
- (13) Insurance. Each person that owns or operates a WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the WCF.
- (14) Inspection. To the extent not deemed by the Pennsylvania Public Utility Commission to be a "public utility", the Township reserves the right to inspect any WCF to ensure compliance with the provisions of this Article and any other provisions found within the

Township Code of Ordinances 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.

(15) Removal, Replacement and Modification

- a. The removal, replacement or material modification of a wireless communication facility for the purpose of upgrading or repairing the wireless communication facility shall be permitted provided that the necessary permits are obtained pursuant to the Spring Township Code of Ordinances and the repair does not substantially change the dimensions of the wireless communication facility.
- b. For the purposes of this subsection, replacement, modification and substantially change shall have the following definitions:

Modification. 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.

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 facility installed and that does not substantially change the physical dimensions of the existing wireless support structure.

Substantial Change. A modification substantially changes the physical dimensions of a wireless communications facility if it meets any of the following criteria:

- 1) For wireless communications towers other than those in the public right-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other wireless support structures, it

increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

a. Changes in height should be measured from the original wireless support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

- 2) For wireless communications towers other than those towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower by more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other wireless support structure, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- 3) For any wireless support structure, it involves installation of more than the standard number of new equipment cabinets of the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- 4) It entails any excavation or deployment outside the current site;
- 5) It would defeat the concealment elements of the wireless support structure; or
- 6) It does not comply with conditions associated with the siting approval of the construction or modification of the wireless support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in this ordinance.

c. Removal. In the event that use of a 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.

- i. All unused or abandoned WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at a site unless a time extension is approved by the Township.
- ii. 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.
- iii. Any unused portions of 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.

(16) Proof of Easement. Where the WCF is located on a property with another use, the WCF Applicant shall present documentation to the Township that the owner of the property and/or structure the WCF is to be collocated on has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.

(17) Non-Commercial Usage Exemption. Township residents or businesses utilizing satellite dishes and antennae for the purpose of maintaining television, phone, amateur (HAM) radio, and/or internet connections at their respective residences or businesses shall be exempt from the regulations enumerated in this section of the Zoning Ordinance.

B. Tower-based wireless communications facilities outside the rights-of-way. The following regulations shall apply to tower-based Wireless Communications Facilities located outside the Right-of-Way (ROW):

- (1) Location. Tower-based WCFs located outside the public right-of-way shall only be permitted as a conditional use in the following zoning districts: Agriculture Preservation District (A-1), Agriculture Development District (A-2), Conservation District (C-1), Light Industrial District (LI), Heavy Industrial District (HI).
- (2) Minimum Lot Area. No minimum lot, lease area and/or license area size is required for a tower-based WCF, except as to comply with the minimum requirements of the zoning district and the regulations herein.
- (3) Setbacks. A tower-based WCF and related equipment shall be setback a minimum of that required of the applicable zoning district, except for the following: No tower-based WCFs shall be located closer than 200 feet, or 110% of the proposed tower height,

whichever is greater, from any existing property line, regardless of the zoning district in which the tower-based WCF and related equipment is located. No new residential structures shall be built within a radius equal to 100% of the height of the tower after the cell tower has been approved and the plan recorded. In cases where this includes adjacent property, an easement shall be obtained from the property owner limiting residential development within the setback area as long as the tower is in existence.

- (4) Height. The maximum height of a tower-based WCF shall be 200 feet, measured from the average natural grade of the approved facility area to the top point of the tower or antennae, whichever is greater.
- (5) 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 agricultural, industrial, commercial, or municipal use, subject to the following conditions:
 - a. The existing use on the property need not be affiliated with the communications facility.
 - b. The minimum lot size shall be that necessary for the tower-based WCF and any other land use to comply with the lot and setback requirements of the applicable zoning district.
 - c. Minimum Setbacks. The tower-based WCF and accompanying communications facility building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCFs shall be located closer than 200 feet or 110% of the proposed tower-based WCF height, whichever is greater, from any existing lot line.
- (6) Design and Construction.
 - a. The tower-based WCF shall be designed and constructed as a monopole. Towers shall be galvanized and/or painted with a rust-preventative paint of an appropriate color as determined by the Township to harmonize with the surroundings. Where feasible/appropriate, the tower or antenna shall be constructed to blend in with the surrounding area.
 - b. Any height extensions to an existing tower-based WCF shall require prior approval of the Township subject to the regulations herein if the height is substantially changed as defined above.
 - c. Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicants' antennas and comparable antennas for at least two additional users if the tower is over one hundred (100) feet in height. Tower-based WCFs must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at various heights.

d. Guy wires are not permitted. The monopole must be self-supporting.

(7) Fence/Screen.

- a. A security fence of approved design, of not less than eight (8) feet in height and no greater than ten (10) feet in height, shall completely enclose the tower-based WCFs. The fencing required in this subsection must also have a one-foot (1') barbed arm slanted at a forty-five (45) degree angle that runs along the entire top of the fence.
- b. Landscaping, consisting of evergreen plantings that shall reach a height of at least eight (8) feet within five (5) years of planting shall be required at the perimeter of the security fences and WCFs. Existing wooded areas, tree lines and hedgerows adjacent to the facility shall be preserved and used to substitute or meet a portion of the buffer yard requirements. When the WCF is located in a developed commercial or industrial area, the Township Board of Supervisors may relax the buffer yard regulations in exchange for another type of screening that is compatible with the surrounding land use.

(8) Accessory Equipment.

- a. Ground-mounted related equipment associated with, or connected to, a tower-based WCF shall be underground, if possible, or located within a building. In the event that an Applicant can demonstrate that equipment cannot be located underground or enclosed in a building to the satisfaction of the Township Engineer, then the ground-mounted equipment shall be screened from public view.
- b. All buildings and structures associated with a tower-based WCF 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.

(9) Access Road. An access road, turnaround space, and parking shall be provided to ensure adequate emergency and service access to tower-based WCFs. 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 road/driveway.

C. Tower-Based Wireless Communications Facilities inside the rights-of-way. The following regulations shall apply to tower-based wireless communications facilities located in the Public Rights-of-Way (ROW).

- (1) Location. Tower-based wireless communications facilities shall be located only in the rights-of-way only if the following conditions are met:
 - a. There is overhead utility infrastructure installed aboveground present in the right-of-way with the overhead utility infrastructure running parallel to the road in the location of the proposed tower-based WCF, and
 - b. The proposed tower-based WCF is located along the classes of streets noted below, as classified by the Spring Township Subdivision and Land Development Ordinance (Chapter 22, Appendix C).
 - i. Arterial Streets
 - ii. Collector Streets
 - c. The applicant for a new tower-based WCF in the right-of-way must demonstrate that the proposed wireless communications equipment cannot be accommodated on an existing structure, such as a utility pole, or within the right-of-way of a road of higher classification than the one proposed. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing roadways including their classification, towers and other suitable structures within a one-third mile radius from the point of the proposed tower, unless the Applicant can show to the satisfaction of the Township Board of Supervisors that a different distance is more reasonable. The Applicant shall utilize the inventory to demonstrate conclusively why an existing roadway of higher classification, tower or other suitable structure cannot be utilized.
- (2) Height. A tower-based WCF shall not exceed forty (40) feet in height, including any height extensions, when located within the ROW.
- (3) Equipment Location. Tower based WCFs and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
 - a. In no case shall ground-mounted related equipment, walls or landscaping be located within eighteen (18) inches of the face of the curb. In the absence of a curb, facilities must be located outside the safe clear zone of the roadway as determined by Township Officials.
 - b. Ground-mounted related equipment that cannot be underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.

- d. Any underground vaults related to tower-based WCFs shall be reviewed and approved by the Township.

(4) Design and Construction

- a. The WCFs shall employ the most current stealth design available in an effort to appropriately blend into the surrounding environment and minimize the aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- b. Any height extensions to an existing tower-based WCF shall require prior approval of the Township to the extent permitted by federal and state law.
- c. Guy wires are not permitted. The monopole must be self-supporting.

(5) Additional Antennas. As a condition of approval for all tower-based WCFs in the ROW, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennas on tower-based WCFs where technically and economically feasible.

D. Attached Wireless Communications Facilities Outside the Right of Way. The following regulations shall apply to all attached Wireless Communications Facilities located outside of the ROW:

(1) Location. Permitted in all zones attached to any structure except as follows.

- a. Attached WCF shall not be located on single-family homes, patio homes, duplexes, townhouses, other residential structure, licensed daycare facilities or any structure accessory to such.
- b. Attached WCF shall not be located within a distance equal to 110% of the height of the proposed WCF to the lot line of an existing single family home, patio home, duplex, townhouse, licensed daycare facility or any other residential structure as measured between the nearest points of the lot line for the aforementioned structure and any portion of the attached WCF. No new residential structures shall be built within a radius equal to 100% of the height of the tower after the cell tower has been approved and the plan recorded. In cases where this includes adjacent property, an easement shall be obtained from the property owner limiting residential development within the setback area as long as the tower is in existence.

(2) Setbacks. If the WCF applicant proposes to locate the communications equipment in a separate building, said building shall comply with the minimum requirements for the applicable zoning district.

- (3) The highest point of an attached WCF located outside the right-of-way shall be no greater than fifteen (15) feet above the roof of a building or the highest point of a non-habitable structure to the extent permissible by law.
 - (4) Design Regulations. Attached WCFs shall be designed in a manner that the antennas and all related equipment match the supporting structure to which they are attached or designed to minimize visibility in order to limit the aesthetic impact. The following additional regulations shall apply to attached WCFs located in districts other than those enumerated in Section 908.2.D(1).
 - a. The attached WCFs shall be camouflaged using stealth design.
 - b. Any related equipment placed on the ground shall be located in inside a structure that is designed in a manner to resemble other structures typically found within the zoning district where the attached WCF is proposed except as noted below.
 - i. When located on a roof of a structure, the related equipment located on the roof of a structure shall be set back or located to minimize visibility or placed in an enclosure mounted on the roof which matches the architecture in terms of materials and colors of the structure it is located on.
 - ii. If the related equipment is proposed to be within 200 feet of the lot line of an existing single family home, patio home, duplex, townhome or licensed daycare facility as measured between the nearest points of the lot line for any of the aforementioned structure and any portion of the attached WCF then the related equipment shall be located in an underground vault.
 - c. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the primary use.
- E. Attached Wireless Communications Facilities in the Rights-of-Way. The following additional regulations shall apply to all attached wireless communications facilities located in the rights-of-way.
- (1) Location. Attached WCFs shall be permitted in the right-of-way if there are above ground utilities present or street lights to which the attached WCF can be mounted.
 - (2) Design Requirements.
 - a. WCF installations located above the surface grade in the public ROW including, but not limited to, those on street lights 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.

- b. 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.

(3) Equipment Location. Attached WCFs and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW, as determined by the Township. In addition:

- a. In no case shall ground-mounted related equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb. In the absence of a curb, facility must be located outside the safe clear zone of the roadway, as determined by the Township.
- b. Ground-mounted related equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground-mounted related equipment cannot be located 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 Township.
- c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
- d. Any underground vaults related to attached WCFs shall be reviewed and approved by the Township.

(4) Height. The highest point of an attached WCF located inside of a right-of-way shall be no greater than six (6) feet above the structure the communication antenna is mounted on or forty (40) feet as measured from the ground, whichever is greater.

F. Stealth Design Requirements. When stealth design is required, WCFs shall be designed in a manner that they blend in with the surrounding environment based upon the method of attachment or mounting of communications antenna noted below.

(1) Roof-Mounted Communications Antenna. A WCF mounted on the roof of an existing structure shall be concealed from view from the ROW and adjacent property owners through the use of raised parapets, camouflaged to look like an equipment or mechanical penthouse, by setting the antennas back from the edge, or similar method that creates a visual screen from the ROW and adjacent properties.

(2) Façade-Mounted Communications Antennal. A WCF mounted to and supported by any part of an existing building or structure other than a roof such as a building wall,

mechanical penthouse screen, parapet, column, side elements of a cupola, steeple, bell or water tower or the side elements of similar structures shall be regulated as follows:

- a. The communications antenna shall appear as an integral part of the building by concealing from view the antennas with the use of building materials that matches the wall to which the antenna is mounted or through painting the communications antenna to match the wall to which it is mounted.
 - b. No part of the communications antenna shall extend above the side element of the structure to which it is attached.
 - c. All wires shall be concealed.
- (3) Pole-Mounted. Communications antennas mounted to an existing vertical structural element such as electrical transmission and distribution lines, street lights, traffic signals, flagpoles or similar structures shall be designed as follows:
- a. The communications antennas shall be concealed by material sufficient to hide the antenna(s) from view. The overall diameter of the antennas and their concealment shall be no greater than 150% of the diameter of the pole to which it is mounted. The same shall apply to any communication antenna(s) mounted on top of the pole. Any extensions to the pole to raise the height of the communications antenna shall maintain the same diameter of pole that is being extended.
 - b. The communication antennas and any associated extension of the pole shall replicate the color and material of the existing pole that the antenna is attached to unless the Township finds that another color or material would be sufficient.
- (4) Tower-Based Wireless Communication Facility. Where a communication antenna(s) is placed on a wireless communications tower and is required to utilize stealth design, the wireless communications tower shall be designed as a monopole and the communications antennas shall be designed in the same manner as the pole-mounted antenna(s) noted above.
- (5) Alternative Wireless Communication Structure. Communication antennas may also be concealed within new freestanding manmade structures that are primarily designed to support communication antenna(s) which are concealed within the building or structure. Examples of such include but are not limited to simulated trees, clock towers, bell steeples, flagpoles and silos. These structures shall have the following design regulations.
- a. No portion of the communications antenna(s) shall extend beyond the outside edges of the building or structure that is designed to camouflage the antenna(s).
 - b. All portions of the communications antenna(s) and wires shall be concealed and not visible.

- c. The overall height of the alternative WCF structure shall not exceed the maximum permitted building height in the respective zoning district plus an additional twenty feet including of all portions of the structure and antenna(s). The structure shall have required setbacks equal to that normally required plus the additional height that the alternative WCF structure is built to.
 - d. Alternative WCF structures shall follow the review procedure established for all tower-based WCFs in Section 908.2.G(1).
 - e. The Alternative WCF structure shall only be permitted in zoning districts where the replicated structure is a permitted primary or accessory use.
- (6) Maintenance. All WCFs utilizing stealth design shall properly maintain the material used to conceal the communication antennas so that they are not in a state of disrepair, considered a safety hazard, or otherwise no longer serve the purpose of camouflaging the antenna as determined by the Township.

G. Procedure.

- (1) All applications for development of a tower-based WCF shall be submitted to the Township via the conditional use process established in the Spring Township Zoning Ordinance (Chapter 27, Section 910). In addition, the following information shall be submitted at time of application
- a. Evidence of Need. The applicant shall submit to Spring Township evidence of the need for the tower-based WCFs in the proposed location and that the applicant has exhausted all alternatives to locate on an existing tower or structure (co-location). In addition, the applicant must demonstrate via written evidence from a qualified, licensed, professional engineer that, in terms of location and construction, there are no existing towers, infrastructure tower-based WCFs, buildings, structures, elevated tanks, or similar uses able to provide the platform for the antenna within a one-third mile radius or one-mile radius for tower-based WCFs taller than 50 feet of the chosen location, unless the applicant can demonstrate to the satisfaction of the Township that a different distance is more reasonable. Co-location is not possible if:
 - (1) Capacity diagrams and technical reports demonstrate that co-location on an existing tower-based WCF is not technically possible in order to serve the desired need;
 - (2) Planned equipment would exceed the structural capacity of existing towers within the Township, considering existing and planned use of those towers, and existing towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

- (3) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for that tower, and the interference cannot be prevented at a reasonable cost;
 - (4) Existing or approved towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned; and/or
 - (5) Other reasons can be demonstrated to the satisfaction of the Township that make it impractical to place the equipment planned by the applicant on existing and approved towers.
- b. Notice. Upon receipt of a complete application for a tower-based WCF, the applicant shall mail notice thereof to the owner or owners of every property within one thousand (1,000) radial feet of the parcel or property of the proposed facility. The applicant shall provide the Township with evidence that the notice was mailed out to applicable property owners.
 - c. State and Federal Regulations. The conditional use application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all state and federal laws and regulations concerning aviation safety.
 - d. All Applicable Provisions. The conditional use application shall be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all applicable provisions of this section.
 - e. Notice. Upon receipt of a complete application for a tower-based WCF, the Applicant shall mail notice thereof to the owner or owners of every property within one thousand (1,000) radial feet of the parcel or property of the proposed facility. The applicant shall provide the Township with evidence that the notice was mailed out to applicable property owners.
 - f. Timing of Approval. Within thirty (30) calendar days prior that an application for a Tower-based WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such tower-based WCF and the Township shall advise the WCF applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the WCF applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.

(2) All applications for the placement of Attached WCFs require zoning and building permits pursuant to the application and approval procedures for such.

a. **Timing of Approval.** Applications for a collocated or attached WCF that do not fall under the Pennsylvania Wireless Broadband Collocation Act shall be reviewed within ninety (90) days of a receipt of a completed application. The Township shall notify the applicant of completeness of the application within thirty (30) days of initial receipt. Incomplete applications shall not be evaluated for zoning approvals.

b. The following regulations shall apply to all collocated and attached WCFs that fall under the Pennsylvania Wireless Broadband Collocation Act and the FCC's 2014 Order and Report:

(1) **Permit Required.** Attached WCF Applicants proposing the modification of an existing tower-based WCF shall obtain a building permit from the Township. In order to be considered for such a permit, the attached WCF applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.

(2) **Timing of approval for applications that fall under the Wireless Broadband Collocation Act.** Within thirty (30) calendar days of the date that an application for an attached WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the WCF applicant in writing of such decision.

(3) **Permit Fees.** The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of an attached WCF or \$1,000, whichever is less.

H. **Use of Right-of-Way.** The following regulations shall apply to those WCFs located within a right-of-way:

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

- (2) Visual Effects. The Township retains the right to deny an application for the construction or placement of a WCF located in the right-of-way based upon visual and/or land use impact. The Township reserves the right to deny such requests based upon aesthetic impact.
- (3) Compensation for ROW Use. In addition to the applicable permit fees, every WCF in the ROW is subject to the Township'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 Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each WCF in the ROW shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. The annual ROW management fee for attached WCFs shall be determined by the Township and authorized by resolution of the Spring Township Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such WCF.
- (4) Restoration Deposit. Prior to the issuance of a permit, the owner of each individual Tower-based WCF shall, at its own cost and expense, deliver a restoration deposit in an amount determined by the Township Engineer. The return of the deposit shall be contingent upon the proper restoration of the ROW and compliance with the terms and conditions of this ordinance. Upon installation of the Tower-based WCF, the applicant shall notify the Township that the site is ready for inspection. The Township shall inspect the site and, if it is found to be satisfactory, the restoration deposit shall be refunded to the applicant within thirty (30) days. The restoration deposit may be forfeited in whole or in part to the Township if any work is found to be incomplete or not in compliance with all applicable standards.
- (5) Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary, or such other period in the case of emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - a. The construction, repair, maintenance or installation of any Township or other public improvement in the ROW;
 - b. The operations of the Township or other governmental entity in the ROW;

- c. Vacation of a street or road or the release of a utility easement; or
 - d. An emergency as determined by the Township.
3. Severability. If any sentence or clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such findings shall not affect or impair any of the remaining parts of this ordinance. It is hereby declared to be the intent that this ordinance would have been adopted had such part not been included.
4. Effective Date. This ordinance shall take effect five (5) days after enactment.

Section 1002: **DEFINITIONS.**

Amend, delete or add the following definitions, as follows:

Alternative Wireless Communications Structure – A new manmade structure located wholly outside of the public right of way that supports communication antennas which are concealed or camouflaged from view by unobtrusively blending in aesthetically with the surrounding environment. For regulatory purposes, such structures shall be considered attached wireless communications facilities.

Essential Services – Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure including, but not limited to, underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, but excluding wireless communication facilities.

Wireless Communications Facilities – Any wireless communications tower that is designed and constructed primarily for the purpose of supporting one or more communications antennas for wireless communications purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes the wireless communications tower and any related equipment.

Tower - deleted

Wireless Support Structure – A freestanding structure, such as an electrical transmission tower, water tower or other structure not classified as a Wireless Communications Facilities, that could support the placement or installation of wireless telecommunications facilities, if approved by the Township.

ORDAINED AND ENACTED into an Ordinance and passed by the Board of Supervisors of Spring Township on this ___th day of _____, 2018.

Spring Township Supervisors

Terry Perryman, Chairman

David Capperella, Vice Chairman

Attest

Frank Royer