

**CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2346-17

“Wireless Supports and Communication Facilities Ordinance”

AN ORDINANCE AMENDING THE CODE OF CHELLENHAM TOWNSHIP CHAPTER 295 (ZONING), ARTICLE II (DEFINITIONS), §295-2 (DEFINITIONS AND WORD USAGE) TO ADD DEFINITIONS OF NEW TERMS RELATED TO WIRELESS COMMUNICATION FACILITIES; AND FURTHER AMENDING CHAPTER 295 (ZONING), TO ADD A NEW ARTICLE XXXVII ENTITLED “WIRELESS SUPPORTS AND COMMUNICATION FACILITIES” TO PERMIT WIRELESS SUPPORTS BY SPECIAL EXCEPTION IN CERTAIN LOCATIONS AND ZONING DISTRICTS IN THE TOWNSHIP, AND TO ESTABLISH CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF WIRELESS SUPPORTS AND COMMUNICATION FACILITIES

The Board of Commissioners of Cheltenham Township does hereby **ENACT** and **ORDAIN**:

SECTION I. - Amendment to Code

The Codified Ordinances of Cheltenham Township, Chapter 295 (Zoning), Article II (Districts, Boundaries and Zoning Map), Section 295-2 (Definition and Word Usage) is hereby amended to add the following definitions:

Antenna – any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An Antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. This definition shall not include private-residence-mounted satellite dishes or television antennas or amateur radio equipment, including, without limitation, ham or citizen band radio antennas.

Applicant – As used in Article XXXVII of this Chapter, the term “Applicant” shall mean any person that applies for a WCF or Wireless Support building permit, zoning approval for the construction, installation or designation of a Wireless Support and/or permission to use the public right-of-way (ROW) or other Township owned land or property.

Base Station – A station at a specified site authorized to communicate with mobile stations, generally consisting of transceivers, Antennae, coaxial cables, power supplies and other associated electronics. Base Stations also include any Non-Tower Wireless Support.

Co-location – The installation of one or more wireless communication facilities, including Antennae, on a previously approved and constructed Wireless Support. The term includes the placement, replacement or modification of previously approved accessory equipment.

Distributed Antenna Systems (DAS) – Network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

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

FCC – Federal Communications Commission.

Height of a Wireless Support - The vertical distance measured from the ground level, including any base pad, to the highest point on a Wireless Support, but not including antennae mounted on the tower and any other WCFs. If the Wireless Support is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the Wireless Support height.

Modification – As used in Article XXXVII of this Chapter, the term “Modification” shall mean the improvement, upgrade, expansion or replacement of existing wireless communication facilities or accessory equipment on an existing Wireless Support, including, but not limited to, any co-location, replacement or removal of WCFs.

Monopole – A Wireless Support or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications Antennae and connecting appurtenances. A monopole is a freestanding structure which does not use the support of guy-wires.

Non-Tower Wireless Support - Any Wireless Support not included within the definition of Tower-Based Wireless Support, including, without limitation, water towers, utility poles, light poles and existing buildings.

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

Related Equipment – Any piece of equipment related to, incident to, or necessary for, the operation of a Wireless Support or WCF. By way of illustration, not limitation, “Related Equipment” includes generators and ground cabinets.

Right-of-Way or ROW – The surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other

than streets that are owned by the Township and also excluding pedestrian trails, footpaths and equestrian trails under the control of the Township. The phrase “in the Right-of-Way” and means in, on, over, along, above and/or under the Right-of-Way. For the purpose of this Article, ROW shall include streets and roads owned by Montgomery County, the Commonwealth of Pennsylvania, and any other Pennsylvania state agencies.

Stealth Technology – Camouflaging methods applied to Wireless Supports, WCFs, Base Stations, Related Equipment, Antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennae or building-mounted Antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

Substantial Change – Any modification of a Wireless Support, including the placement of any WCFs thereon, that results in the following:

A. For all Wireless Supports:

- (1) Any increase in the number of equipment cabinets beyond the industry standard for the technology involved, and in any case an increase in the total number of existing and new equipment cabinets to greater than four (4);
- (2) Any modification that requires the excavation or deployment outside of the current site of the Wireless Support;
- (3) Any modification that defeats the existing concealment and stealth technology efforts of the Wireless Support;
- (4) Any modification that does not comply with the conditions associated with the initial or subsequent approval of the construction or modification of the Wireless Support.

B. For Tower-Based Wireless Supports outside of rights-of-way:

- (1) Any increase in the height of a Tower-Based Wireless Support by more than 10% of its existing height, or by the height of one additional antenna array with separation from the nearest existing antenna by more than 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 but only as much as is necessary to avoid interference with existing antennae; or
- (2) Any increase in the horizontal width of a Tower-Based Wireless Support by more than twenty (20) feet, or by an amount equal to the existing width of the Tower-Based Wireless Support, whichever is greater.

C. For Tower-Based Wireless Supports in rights-of-way and all Non-Tower Wireless Supports:

- (1) Any increase in the height of a Wireless Support by more than 10% of its existing height, or by more than ten (10) feet, whichever is greater; or

- (2) Any increase in the horizontal width of a Wireless Support by more than six (6) feet.

Tower-Based Wireless Support – Any tower, monopole, or other structure which has a primary purpose of supporting wireless communication facilities thereto, which has received approval from the Zoning Hearing Board as required in this Chapter, to be designated as a Wireless Support. This definition shall include, but not be limited to, DAS hub facilities, self-supporting lattice towers, guy towers and monopoles.

Township – Cheltenham Township, Montgomery County, PA

WBCA – Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*), as amended.

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

Wireless Communications Facility (WCF) – The set of equipment and network components, including Antennae, nodes, control boxes, conduits, ducts, pedestals, electronics and other equipment, used for the purpose of transmitting, receiving, distributing, or providing wireless communications services. The term does not include any Wireless Support.

Wireless Support – Any support structure that supports wireless communications facilities, regardless of its primary purpose, including but not limited to towers, monopoles, buildings, water towers, utility poles and light poles, that could support the placement or installation of WCFs if approved by the Township. This term does not include the wireless communications facility attached thereto.

SECTION II. - Amendment to Code

ARTICLE XXXVII: Wireless Supports and Communication Facilities.

§295-276

- A. Short Title. This Article shall be known as the “Cheltenham Township Wireless Supports and Communications Facilities Ordinance.”
- B. Purposes and Findings of Fact.
 - (1) The purpose of this Article is to establish uniform standards for the siting, design, permitting, designation, maintenance, installation, construction and use of Wireless Supports and Wireless Communication Facilities in Cheltenham Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
 - (2) By enacting this Article, the Township intends to:
 - (a) Promote the health, safety, and welfare of Township residents and businesses with respect to wireless communication facilities;

- (b) Provide for the managed development of Wireless Supports and Wireless Communications Facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
- (c) Establish procedures for the design, siting, designation, construction, installation, maintenance and removal of both Tower-Based and Non-Tower Wireless Supports in the Township, including facilities both inside and outside the public Right-of-Way;
- (d) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable wi-fi and other wireless communications facilities;
- (e) Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
- (f) Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
- (g) Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

C. Applicability.

- (1) New Wireless Communications Facility Structures. All new Wireless Supports and WCFs in the Township, not in existence on the effective date of this Article, shall be subject to these regulations, except as provided in Subsections C(2) and C(3) below.
- (2) Pre-Existing Approved Wireless Supports and WCFs. Except with regard to additions or substantial modifications, Wireless Supports and WCFs in existence prior to the effective date of this Article, if previously approved by the Township or the Zoning Hearing Board (as applicable), shall not be required to meet the requirements of this Article other than the requirements of Subsections 295-276.D. (11), (12) and (13) below. Existing Wireless Supports and WCFs not previously approved by the Township or the Zoning Hearing Board (as applicable) shall be fully subject to all of the requirements of this Article.
- (3) Amateur Radio Station Operators or Receive Only Antennas. This Article shall not govern any support structure, or the installation of any antenna array, that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only and/or non-commercial antennas.

D. General Requirements.

- (1) Standard of Care. All Wireless Supports and WCFs shall be designed, constructed, installed, erected, 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, as applicable. All Wireless Supports and 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) Maintenance. All Wireless Supports and WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair. 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 and businesses. All modifications and utilized materials shall be nothing less than the best available technology for preventing failures and accidents. All maintenance shall be ordered and repaired by qualified maintenance and construction personnel.
- (3) Public Safety Communications. No Wireless Support or 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) Radio Frequency Emissions. No Wireless Support or WCF may, by itself or in conjunction with other Wireless Supports and/or WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (5) Aviation Safety. All Wireless Supports and WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (6) Related Equipment. Ground-mounted related equipment greater than three (3) cubic feet, such as cabinets and accessory structures, shall not be located within fifty (50) feet of a lot in residential use or zoned residential.
- (7) Historic Buildings or Districts. No structure that could support the placement or installation of WCFs, may be designated as a Wireless Support if it is:
 - (a) Listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed.
 - (b) Included in the official historic structures and/or historic districts list maintained by the Township.
 - (c) Located within the boundaries of any historical district in the Township.
- (8) Wind. Wireless Supports and WCFs shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E Code, as amended).
- (9) Lighting. Wireless Supports and WCFs shall not be artificially lighted, except as required by law. 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.
- (10) Noise. Wireless Supports and WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the First Class Township

Code, except in Emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

- (11) Inspection. The Township reserves the right to inspect any Tower-Based Wireless Support to ensure compliance with the provisions of this Section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Wireless Support is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (12) FCC License. Each Person that owns or operates a Tower-Based Wireless Support in the Township shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (13) Reimbursement for ROW Use. Every Wireless Support located in the ROW is subject to the Township's right to fix annually compensation to be paid for use and occupancy of the ROW and all costs incurred by the Township as a result of such activities. 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 annual ROW management fee for Wireless Supports shall be authorized by resolution of the Board of Commissioners, as amended from time to time.
- (14) Zoning Requirements. In addition to the requirements contained in this Article, a Wireless Support must also comply with the requirements of the zoning district within which the Wireless Support is located. Where conflict exists between the requirements of the zoning district within which the Wireless Support is located and this Article, this Article shall control.

E. Application, Permit Fees and Retention of Experts.

- (1) Application. An Applicant proposing the construction or designation of any new Wireless Support or the modification or co-location of a WCF on any existing Wireless Support shall complete and submit an application to the Township prior to beginning construction, designation, co-location or modification which shall include, at a minimum, the following:
 - (a) Name, address and point of contact for the Applicant.
 - (b) Name, address and point of contact for the property owner upon which the new Wireless Support or the modification or co-location of a WCF on any existing Wireless Support is proposed to be located.
 - (c) All fees required by the Township's fee schedule, including fees required this Section.
 - (d) A description, drawing and plan showing the proposed installation, construction and/or changes to the Wireless Supports, in detail, and the WCF to be attached thereto. All plans and drawings for the installation, construction or modification of a Wireless Support, or the replacement, modification or co-location of a WCF on a Wireless Support and Related Equipment shall be signed and sealed by a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

- (e) A copy of all Zoning Hearing Board decisions pertaining to the property upon which the Wireless Support is located.
- (f) If located outside of a right-of-way, documentation evidencing ownership of the parcel upon which the Wireless Support is proposed, or an easement or other agreement with the owner which provides the Applicant with access thereto.

F. Modification or Co-location of WCFs.

- (1) Additional Application Requirements. In addition to the information set forth in Paragraph E, the Applicant shall complete and submit a building permit application, and request a certification from the Township that existing Wireless Support is in compliance with this Section and all other applicable ordinances of the Township, subject to the WBCA.
- (2) 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, as well as related inspection, monitoring and associated costs, which permit fees shall not exceed \$1,000, or other such other monetary limit, set forth in the WBCA.
- (3) Cost of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application, the cost of which shall be included in the permit fees.
- (4) Approval Process. Within thirty (30) calendar days of the date that an application for modification or co-location of a WCF on an existing Wireless Support is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application, including the law, ordinance, or code section authorizing such request. If, after additional information is submitted, the Township finds the additional information to be insufficient, the Township may send a second written request within ten (10) days of the subsequent submission. All applications for modifications or co-locations of WCFs shall be acted upon within sixty (60) days of the receipt of the initially submitted application and the Township shall advise the Applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the above-stated guidelines.
- (5) Substantial Change. Any application proposing a modification, co-location or any other change to a Wireless Support, WCF or Related Equipment that is deemed to constitute a Substantial Change shall be an application for a new Wireless Support and shall be reviewed under the provisions of this Section 295-276 for the same.

G. Location of Wireless Supports

- (1) Prohibited on Certain Structures. Unless expressly permitted by this Section, Wireless Supports shall not be located in, on, or within one hundred (100) feet of any residential zoning district or residential use.
- (2) Tower-Based Wireless Supports Outside a ROW. Tower-Based Wireless Supports are permitted by special exception outside of the Right-of-Way in the following zoning district: G Manufacturing and Industrial District.

- (3) Tower-Based Wireless Supports Within a ROW. Tower Based Wireless Supports are permitted by special exception within the Right-of-Way where utilities are above ground in the following zoning districts:
 - (a) C1 Commercial District;
 - (b) C2 Commercial District;
 - (c) C3 Commercial District;
 - (d) C4 Commercial District; and
 - (e) G Manufacturing and Industrial District.
- (4) Non-Tower Based Wireless Supports Outside of a ROW. Non-Tower-Based Wireless Supports are permitted in all zoning districts, subject to the height restrictions of the underlying zoning district, but shall not be permitted in or within one hundred (100) feet of any residential use.
- (5) Non-Tower Based Wireless Supports within a ROW. The only structures in the Right-of-Way that shall be designated by the Township as Non-Tower Wireless Supports shall be existing poles, such as existing utility poles or light poles.

H. Special Exception Procedure.

- (1) Application. The application shall be submitted, in writing, to the Township during regular business hours, with all fees required by the Township's fee resolution and this Section. The application shall include a request for special exception and sufficient information to document compliance with the applicable standards, conditions and criteria of this Section and the underlying zoning district in which the Wireless Support is to be located.
- (2) Notice by Applicant. Upon submission of an application for the construction, installation or designation of a new Wireless Support, 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 mailing of the notification to the Township.
- (3) Application Review. Within 30 days of receipt of the application, a copy of the application will be provided to the Township Planning Commission, Montgomery County Planning Commission, the Township Engineer and any other agency or technical consultants whose review may be relevant.
- (4) Public Notice. Public notice of the public hearing, stating the time, place and the particular nature of the case to be considered, shall be published in accordance with the requirements of the Municipalities Planning Code, as amended.
- (5) Decision. A written decision shall be rendered by the Zoning Hearing Board in accordance with the requirements of the Municipalities Planning Code, as amended.
- (6) Permits Required. Any Applicant proposing the designation, construction or installation of a new Wireless Support shall obtain a zoning permit and building permit from the Township prior to construction. Approval of any special exception for a Wireless Support shall expire

one (1) year after the date of approval by the Zoning Hearing Board if, prior to such expiration, the applicant fails to obtain a building permit or use and occupancy permit, unless the Zoning Hearing Board has agreed, in writing or on the record, to an extension of time.

I. Special Exception Standards and Criteria.

(1) General Standards and Criteria. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the chapter, as it may deem necessary to implement the purposes of this chapter. In deciding all applications for special exceptions under this Article, the Zoning Hearing Board shall be guided by the following standards and criteria:

- (a) The proposed use is permitted by special exception, and it will conform to the applicable regulations of the district in which it is located.
- (b) Points of vehicular access to the lot are provided at a distance from intersections and other points of access and in number sufficient to prevent undue traffic hazards and obstructions to the movement of traffic.
- (c) A determination that the proposed use will not have an unwarranted impact on traffic in the area, either creating significant additional congestion in an area of existing congestion or posing a threat of significant additional congestion where there is a high probability of future congestion. In addition, Zoning Hearing Board shall consider whether the proposed use will create any traffic hazard dangerous to the public safety.
- (d) The proposed use will not impair an adequate supply of light and air to adjacent property.
- (e) The proposed use will not adversely affect the public health, safety or general welfare.

(2) Indemnification. Each Person who owns or operates a Wireless Support located in the Township shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees, consultants, solicitors 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 a Wireless Support which is located in the Township and owned or operated by the Person, and any WCFs attached thereto. Each Person that owns or operates a Wireless Support shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Wireless Supports and any WCFs attached thereto. 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. Additional Standards and Criteria for Tower-Based Wireless Supports.

(1) Additional Criteria. The standards and criteria set forth in this Paragraph J are in addition to the General Standards and Criteria set forth in Paragraph I.

- (2) Gap in Coverage. Subject to the WBCA, an Applicant for the construction, installation or designation of a Tower-Based Wireless Support 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 Wireless Support being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Zoning Hearing Board's decision on an application for approval of the Application for the construction, installation or designation of Tower-Based Wireless Supports.
- (3) Co-Location Not Available. An application for a new Tower-Based Wireless Support shall not be approved unless the Zoning Hearing Board finds that the wireless communications equipment planned for the proposed Tower-Based Wireless Support cannot be accommodated on an existing or approved Wireless Support, or on Township property. Any application for approval of a Tower-Based Wireless Support shall include a comprehensive inventory of all existing Wireless Supports and other suitable structures within a two-mile radius from the point of the proposed Tower-Based Wireless Support, unless the Applicant can show to the satisfaction of the Zoning Hearing Board that a different distance is more reasonable, and shall demonstrate conclusively why an existing Wireless Support or other suitable structure cannot be utilized.
- (4) Design Regulations. The Wireless Support shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be subject to the approval of the Zoning Hearing Board. Any proposed Tower-Based Wireless Support shall be designed structurally, electrically, and in all respects to accommodate both the Applicant's Antennae and comparable Antennae for future users.
- (5) Additional Antennae. As a condition of approval for all Tower-Based Wireless Supports, the Applicant shall provide the Zoning Hearing Board with a written commitment that it will allow other service providers to co-locate Antennae on its Tower-Based Wireless Support where technically and economically feasible. Subject to the WBCA, no Person shall cause any additional Antennae to be installed without first obtaining the written approval of the Township.
- (6) Signs. All Tower-Based Wireless Supports shall be accompanied by a sign in a location readily visible to any person outside of the equipment compound identifying the name and phone number of a party to contact in the event of an Emergency. The face of such sign shall be no larger than six (6) square feet and the top of such sign shall be located at a height of no higher than ten (10) feet from the ground.
- (7) Protective Covering. All Tower-Based Wireless Supports shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings, such as "City Lights" or a similar color.
- (8) Prohibited as a Sole Use on a Lot. A Tower-Based Wireless Support shall not be permitted to be the sole use on a lot which meets the minimum lot area for the district.
- (9) Financial Security – Tower Based Wireless Supports. Prior to issuance of any permit for the designation, construction or placement of a Tower-Based Wireless Support, the owner shall obtain and maintain a bond or other form of financial security acceptable to the Township Solicitor, in the amount of One Hundred Thousand Dollars (\$100,000) for each Tower-Based

Wireless Support to assure the faithful performance of the terms and conditions of this Subsection (9). The financial security shall be provided by the owner at its own cost and expense, shall be obtained from a surety licensed to do business in Pennsylvania and shall be maintained throughout the existence of the Wireless Support. The financial security required under this Subsection (9) shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Section, after reasonable notice and opportunity to cure.

- (10) Insurance. Each Person that owns or operates a Tower-Based Wireless Support in the Township shall demonstrate to the Zoning Hearing Board that the Person shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$2,000,000 per occurrence covering the Tower-Based Wireless Support.
- (11) Combined with Another Use. A Tower-Based Wireless Support may be permitted on an improved property with an existing use, or an unimproved property in combination with another use. The existing use on the property shall be any permitted use in the applicable district, and need not be affiliated with the WCF.

K. Standards and Criteria for Tower-Based Wireless Supports Located Outside of the Right-of-Way.

- (1) Additional Criteria. The standards and criteria set forth in this Paragraph K are in addition to the General Standards and Criteria set forth in Paragraphs I and J.
- (2) Minimum Parcel Size. All Tower-Based Wireless Supports shall be located on parcels of land having a minimum lot size of one (1) acre. Additionally, all dimensional requirements for the underlying zoning district shall be complied with and adequate area shall be present to accommodate the Tower-Based Wireless Support, the Related Equipment, and any required building, shelter, security fence and/or buffer plantings.
- (3) Minimum Setbacks. The Tower-Based Wireless Support, the Related Equipment and any accompanying utility building, cabinet or shelter shall comply with the minimum setback requirements of the underlying zoning district or the setback shall be equivalent to the maximum height of the proposed Tower-Based Wireless Support, whichever setback is greater.
- (4) Height. The height shall conform to the height limitations of the underlying zoning district, unless a variance is granted by the Zoning Hearing Board. Any height extensions to an existing Tower-Based Wireless Support shall require prior approval of the Zoning Hearing Board, subject to the WBCA.
- (5) Existing Vegetation. The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Wireless Support shall be preserved to the maximum extent possible.
- (6) Soil Report. The Applicant shall submit a soil report to the Township complying with the standards of the ANSI/EIA-222-E (Geotechnical Investigations), as amended, to document and verify the design specifications of the foundation of the Tower-Based Wireless Support, and anchors for guy wires, if used.

- (7) Fence. An eight (8) foot high security fence shall completely surround any Tower-Based Wireless Support outside the Right-of-Way, as well as guy wires and any building or shelter housing Related Equipment.
- (8) Screening Plantings. A screen of evergreen trees planted at a maximum of eight (8) feet on center, and staggered in at least two (2) rows, shall be located along the perimeter of the security fence surrounding a Tower-Based Wireless Support. The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Tower-Based Wireless Support shall be preserved to the maximum extent possible. Fence gates shall remain accessible.
- (9) Related Equipment. Ground-mounted equipment associated to, or connected with, a Tower-Based Wireless Support shall be underground or screened from public view using Stealth Technologies. All utility buildings and Related Equipment 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.
- (10) Maximum Related Equipment Footprint. The maximum footprint of the Related Equipment, including fencing, shall be one hundred forty-four (144) square feet.
- (11) Access Road. An access road, turnaround space and parking shall be provided to ensure adequate Emergency and service access to Tower-Based Wireless Support. 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 owner of the Wireless Support shall present documentation to the Zoning Hearing Board that the property owner has granted an easement for the proposed facility.
- (12) Parking. There shall be two (2) off-street parking spaces for the first carrier and one (1) additional parking space for each additional carrier up to a maximum of four (4) parking spaces per Tower-Based Wireless Support.

L. Standards and Criteria for Tower-Based Wireless Supports in the Right-of-Way.

- (1) Additional Criteria. The standards and criteria set forth in this Paragraph L are in addition to the General Standards and Criteria set forth in Paragraphs I and J.
- (2) Height. Tower-Based Wireless Supports in the ROW shall not exceed thirty-five (35) feet in height. Subject to the WBCA, all height extensions to an existing Tower-Based Wireless Support shall require prior approval of the Township, and shall not constitute a Substantial Change. All increases in the height are cumulative and additional increases shall not be further permitted.
- (3) Related Equipment. Related Equipment connected to or associated with Tower-Based Wireless Supports located in the Right-of-Way shall be installed underground if located in the Right-of-Way or within an easement area located on a privately-owned adjacent lot 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 Zoning Hearing Board. In addition:

- (a) Related Equipment shall be screened, to the fullest extent possible, through the use of Stealth Technology, including decorative features, to the satisfaction of the Township. Such screening shall maintain clear sight distance for motorists.
- (b) Any underground vaults related to Tower-Based Wireless Supports shall be reviewed and approved, in advance, by the Zoning Hearing Board.
- (c) Any Related Equipment attached to the Tower-Based Wireless Support shall be attached at a minimum vertical height of no less than twelve (12) feet from the ground.
- (4) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based Wireless Supports 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.

M. General Criteria and Standards for Non-Tower Wireless Supports.

- (1) Additional Criteria. The standards and criteria set forth in this Paragraph M are in addition to the General Standards and Criteria set forth in Paragraph I.
- (2) Financial Security – Non-Tower Based Wireless Support. Prior to issuance of any permit for the designation, construction or placement of a Non-Tower Based Wireless Support, the owner shall, at owner's expense, obtain and maintain a bond or other form of financial security in an amount in accordance with a Resolution adopted by the Board of Commissioners to assure the faithful performance of the terms and conditions of this Section. The financial security shall be provided by the owner at its own cost and expense, shall be obtained from a surety licensed to do business in Pennsylvania and shall be maintained throughout the existence of the Wireless Support. The financial security required under this Subsection (2) shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Section, after reasonable notice and opportunity to cure.
- (3) Insurance – Non-Tower Based Wireless Support. Each Person that owns or operates a Non-Tower Wireless Support shall demonstrate to the Zoning Hearing Board that such Person will provide to the Township a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower Wireless Support.

N. Additional Criteria and Standards of Non-Tower Wireless Supports Located Outside of ROWs.

- (1) Additional Criteria. The standards and criteria set forth in this Paragraph N are in addition to the General Standards and Criteria set forth in Paragraphs I and M.
- (2) Existing Structure Required. Non-Tower Wireless Supports shall only be located on existing structures, such as existing buildings.
- (3) Height of Wireless Support. The total height of any Wireless Support shall not exceed the maximum height of forty-five (45) feet or the maximum height permitted in the underlying zoning district, whichever is less.

- (4) Height and Diameter of Antennae. Antennae and accessory equipment that are mounted to a building or similar structure may not exceed a height of ten (10) feet above the roof or parapet, whichever is higher, unless the Applicant first obtains a special exception. Antennae, 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) Justification of Height Required. The Applicants for a Non-Tower Wireless Support located outside the Right-of-Way must submit documentation to the Zoning Hearing Board or the Township (as applicable) demonstrating compliance with the total height restrictions of the underlying zoning district, subject to the WBCA.
- (6) Stealth Technology. Non-Tower Wireless Supports shall employ Stealth Technology and be treated to visibly match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be subject to the approval of the Zoning Hearing Board or the Township (as applicable). Township citizens utilizing satellite dishes and antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences for personal use shall be exempt from the requirements of this Subsection (6).
- (7) Removal, Replacement, Modification. The removal and replacement of Non-Tower Wireless Supports and/or accessory equipment for the purpose of upgrading or repairing the Wireless Support is permitted, so long as such repair or upgrade does not increase the overall size or height of the Wireless Support or the numbers of Antennae, subject to the WBCA.
- (8) Related Equipment. Ground-mounted Related Equipment connected to or associated with a Non-Tower Wireless Support outside the Right-of-Way shall be installed underground, if feasible. Ground-mounted Related Equipment that cannot be installed underground shall be screened from public view using Stealth Technology, landscaping and other decorative features to the satisfaction of the Zoning Hearing Board or the Township (as applicable). If the Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum setback and other dimensional requirements for the underlying zoning district.
- (9) Fencing and Screening. An eight (8) foot high security fence and landscaping satisfying the requirements of this Section shall surround any separate communications equipment building. The landscaping shall consist of a screen of evergreen trees planted eight (8) feet on center, and staggered in two (2) rows, located along the perimeter of the security fence.
- (10) Maximum Building Footprint Housing Related Equipment. The maximum footprint of the Related Equipment, including fencing, shall be one hundred forty-four (144) square feet.
- (11) Vehicular Access. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

O. Standards and Criteria for Non-Tower Wireless Supports in the Right-of-Way.

- (1) Additional Criteria. The standards and criteria set forth in this Paragraph N are in addition to the General Standards and Criteria set forth in Paragraphs I and M.

- (2) Location. The only structures in the Right-of-Way that shall be designated by the Township as Non-Tower Wireless Supports shall be existing poles, such as existing utility poles or light poles.
- (3) Design Criteria. The installation of WCFs on Non-Tower Wireless Supports 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 having a size that does not constitute a Substantial Change and that are compatible in scale and proportion to the Wireless Supports upon which they are mounted, subject to the WBCA. All equipment shall be the smallest and least visibly intrusive equipment feasible. Antennae and all Related Equipment shall be designed to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the Non-Tower Wireless Support upon which they are mounted.
- (4) Related Equipment. Related Equipment connected to or associated with Non-Tower Wireless Supports and WCFs located in the Right-of-Way shall be installed underground if located in the Right-of-Way or within an easement area located on a privately-owned adjacent lot 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.
- (5) Screening and Stealth Technology. Related Equipment shall be screened, to the fullest extent possible, through the use of Stealth Technology, including decorative features, to the satisfaction of the Township. Such screening shall maintain clear sight distance for motorists.
- (6) Underground Vaults. Any underground vaults related to Non-Tower Wireless Supports and WCFs shall be reviewed and approved, in advance, by the Township.
- (7) Minimum Height of Related Equipment. Any Related Equipment attached to the Non-Tower Wireless Support shall have a minimum vertical height of no less than twelve (12) feet.
- (8) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower Wireless Supports 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.
- (9) Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a Non-Tower Wireless Support in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Wireless Support 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 Right-of-Way;
 - (b) The operations of the Township or other governmental entity in the Right-of-Way;

- (c) Vacation of a street or road or the release of a utility easement; or
- (d) An Emergency as determined by the Township.

P. Relocation and Removal of Wireless Supports.

- (1) Discontinued, Unused or Abandoned Tower-Based Wireless Supports. In the event that the use of a Tower-Based Wireless Support 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. Notwithstanding the foregoing, the Township may deem a Tower-Based Wireless Support to be abandoned or unused after reasonable investigation. Unused or abandoned Tower-Based Wireless Supports or portions thereof shall be removed as follows:
 - (a) All unused or abandoned Tower-Based Wireless Supports and Related Equipment shall be removed by the owner within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the Wireless Support, Related Equipment 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 Wireless Support, Related Equipment and/or accessory facility may be removed by the Township and the cost of removal assessed against the owner of the Wireless Support, Related Equipment and/or accessory facility.
 - (c) Any unused portions of Tower-Based Wireless Supports, including Antennae, shall be removed within six (6) months of the time of cessation of operations. The Township must approve all replacements of portions of a Tower-Based Wireless Support previously removed, subject to the WBCA.
- (2) Removal of Discontinued, Unused or Abandoned Non-Tower Wireless Support. In the event that use of a Non-Tower Wireless Support is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Notwithstanding the foregoing, the Township may deem Non-Tower Wireless Supports to be abandoned or unused after reasonable investigation. Unused or abandoned Non-Tower Wireless Supports or portions thereof shall be removed as follows:
 - (a) All abandoned or unused Non-Tower Wireless Supports and Related Equipment shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the Non-Tower Wireless Support or Related Equipment is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the Non-Tower Wireless Support, Related Equipment and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the Non-Tower Wireless Support, Related Equipment and/or associated facilities.
- (3) Relocation or Removal of Wireless Supports in ROWs. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a Wireless Support in the ROW shall, at its own expense, temporarily or permanently remove, relocate,

change or alter the position of any Wireless Support when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- (a) The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
 - (b) The operations of the Township or other governmental entity in the Right-of-Way;
 - (c) Vacation of a street or road or the release of a utility easement; or
 - (d) An Emergency as determined by the Township.
- (4) Cost of Removal. If the removal of the Wireless Support is performed by the Township in accordance with other provisions of the First Class Township Code, the Township shall have the right to recover any and all reimbursement of the expenses of removal from/against the bond. The owner shall file a copy of the bond with the Township prior to the issuance of the building permit. The Township's remedies shall be cumulative, and in the event that the Township exercises its rights to recovery against the bond, the Township shall retain its right to recover any and all outstanding costs as permitted by the Pennsylvania Municipalities Planning Code and applicable law, such as an action in equity.

Q. Violations Applicable to All Wireless Supports and Facilities.

- (1) Penalties. Any Person violating any provision of this Article shall be subject, upon finding by a magisterial district judge, to a civil penalty not exceeding six hundred dollars (\$600), for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Article and any other remedy at law or in equity, the Township may apply to a court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Article.
- (2) Determination of Violation. In the event a determination is made that a Person has violated any provision of this Article, such Person shall be provided written notice of the determination and the reasons therefore. Except in the case of an Emergency, the Person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided the Person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this Article and/or federal and/or Pennsylvania law and regulations.

R. Miscellaneous.

- (1) Non-Conforming Uses. Non-conforming Tower-Based Wireless Support which are damaged or destroyed after enactment of this Article 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.

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

SECTION III. - Severability

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION IV. - Failure to Enforce not a Waiver

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION V. - Effective Date

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

SECTION VI. - Repealer

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.


DULY ORDAINED AND ENACTED this 21st day of **June 2017**, by the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

ATTEST:



Bryan T. Havir
Township Manager and Secretary

**TOWNSHIP OF CHELTENHAM
BOARD OF COMMISSIONERS**

By: 
Morton J. Simon, Jr., President