

**TOWNSHIP OF LOWER ALLEN
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE 2016-04

AN ORDINANCE OF THE TOWNSHIP OF LOWER ALLEN, CUMBERLAND COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF THE TOWNSHIP OF LOWER ALLEN, PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT, PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES AND NON-TOWER WIRELESS COMMUNICATION FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Commissioners of the Township of Lower Allen, Cumberland County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I. Repealer of Certain Definitions and Provisions

- A. The definitions of “Antenna,” “Antenna Support Structure,” “Personal Wireless Services,” “Personal Wireless Service Facilities,” “Personal Wireless Services Site,” and “Unlicensed Wireless Service” are hereby repealed and removed as definitions from Section 220-6 of the Lower Allen Township Zoning Ordinance.

SECTION II. Amendment to Section 220-6 Definitions; Word Usage, Definition of Terms of the Zoning Ordinance

Section 220-6 of the Zoning Ordinance is hereby amended to include the following definitions to the “Definitions; Word Usage” section:

1. *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 consist of an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna.
2. *Co-location*—the mounting of one or more WCFs, including antennae, on an existing Tower-Based WCF, or on any structure that already supports at least one Non-Tower WCF.
3. *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.
4. *Emergency*—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.
5. *FCC*—Federal Communications Commission.
6. *Height of a Tower-Based WCF* - the vertical distance measured from the ground level, including any base pad, to the highest point on a Tower-Based WCF, including antennae mounted on the tower and any other appurtenances.

7. *Monopole*—a Tower-Based WCF which consists of a single-pole Wireless Support Structure, designed and erected on the ground or on top of a structure, to support Antennae and connecting appurtenances.
8. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—all WCFs that are not Tower-Based, such as an Antenna sited on an existing utility pole, building or water tower. A Non-Tower WCF consists of an Antenna and all Related Equipment.
9. *Related Equipment (Including Base Stations)* —any piece of equipment related to, incidental to, or necessary for, the operation of a Tower-Based WCF or Non-Tower WCF. By way of illustration, not limitation, Related Equipment includes generators and base stations.
10. *Stealth Technology*—camouflaging methods applied to wireless communications towers, antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
11. *Substantially Change or Substantial Change* - A modification to an existing wireless communications facility Substantially Changes the physical dimensions of a tower or base station if it meets any of the following criteria: (1) for Tower-Based WCF outside the public rights-of-way, it increases the height of the facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed 20 feet, whichever is greater; for Tower-Based WCF in the rights-of-way, it increases the height of the facility by more than 10% or 10 feet, whichever is greater; (2) for Tower-Based WCF outside the public rights-of-way, it protrudes from the edge of the WCF by more than 20 feet, or more than the width of the Tower structures are the level off the appurtenance, whichever is greater; for those Tower-Based WCF in the public rights-of-way, it protrudes from the edge of the structure by more than 6 feet; (3) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; (4) it entails any excavation of deployment outside the current site of the Tower-Based WCF; or (5) it does not comply with conditions associated with prior approval of construction or modification of the Tower-Based WCF unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.
12. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—a structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles.
13. *WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)*
14. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
15. *Wireless Communications Facility (WCF)*—the antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.
16. *Wireless Communications Facility Applicant (WCF Applicant)*—any entity that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Township owned land or property.
17. *Wireless Support Structure*—a freestanding structure that is constructed for the primary purpose of supporting the placement or installation of a WCF, or any other structure approved for such purpose by the Township, or single Antenna if approved by the Township.

SECTION III. REPEALER AND ADOPTION OF NEW WIRELESS COMMUNICATIONS FACILITIES PROVISIONS

- A. Section 220 of the Lower Allen Township Zoning Ordinance is hereby amended to include the following provisions:

§ 220-207 Wireless Communications Facilities

- A. Purposes and Findings of Fact.

(1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of Wireless Communications Facilities in Lower Allen Township (referred to herein as the "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 these provisions, the Township intends to:

- a. Accommodate the need for Wireless Communications Facilities while regulating their location and number so as to ensure the provision of necessary services;
- b. Provide for the managed development of Wireless Communications Facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
- c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both Tower-Based and Non-Tower based Wireless Communications Facilities in the Township, including facilities both inside and outside the public rights-of-way;
- d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, and other Wireless Communications Facilities;
- e. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that competing providers of wireless communications services co-locate their Non-Tower WCF and related facilities on existing towers;
- f. Promote the health, safety and welfare of the Township's residents.

- B. General and Specific Requirements for Non-Tower Wireless Communications Facilities

(1) The following regulations shall apply to all Non-Tower WCF:

- a. Permitted by right subject to regulations.
- b. The following sites shall be utilized by applicants as the preferred order of location of proposed Non-Tower WCF, including Antenna and Related Equipment. As determined feasible, and in order of preference, the sites are:
 - (1) Existing WCF, utility poles, traffic signal poles, smokestacks, water towers, or any other tall structures.
 - (2) I-1 General Industrial District, I-2 Mineral Recovery District, and I-3 Industrial/Commercial District.

- (3) Publicly owned structures.
 - (4) C-1 Neighborhood Commercial District, C-2 General Commercial District, C-3 Planned Business Center District, and C-4 Regional Commercial District.
 - (5) Residential zones which are MUN Mixed-Use Neighborhood District, R-1 Single-Family Established Residential District, R-2 Single-Family Rural Residential District, and R-3 Multifamily Residential District, as a conditional use.
- c. Non-conforming Wireless Support Structures. Non-Tower WCF shall be permitted to co-locate upon non-conforming Tower-Based WCF and other non-conforming structures. Co-location of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.
 - d. Standard of care. Any Non-Tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including the Pennsylvania Uniform Construction Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
 - e. Wind. All Non-Tower WCF structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition 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/TIA-222, as amended).
 - f. Aviation safety. Non-Tower WCF shall comply with all federal and state laws and regulations concerning aviation safety.
 - g. Public safety communications. Non-Tower WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
 - h. Radio frequency emissions. A Non-Tower WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
 - i. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
 - (1) All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (2) If the WCF or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
 - j. Insurance. Each Entity that owns or operates a Non-Tower WCF on Township property or in Township rights-of-way shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of

\$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower WCF.

- k. Indemnification. Each entity that owns or operates a Non-Tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the entity, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Non-Tower WCF. Each entity that owns or operates a Non-Tower WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Non-Tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
 - l. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - (1) The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
 - m. Financial security. Prior to receipt of a zoning permit for the construction or placement of a Tower-Based WCF, the WCF Applicant shall provide to the Township financial security sufficient to guarantee the removal of the Tower-Based WCF, but in no case less than 20% of construction costs. Said financial security shall remain in place until the Tower-Based WCF is removed.
- (2) The following regulations shall apply to all collocated Non-Tower WCF that do not Substantially Change the Physical Dimensions of the Wireless Support Structure to which they are attached, or otherwise fall under the Pennsylvania Wireless Broadband Collocation Act
- a. Permit required. WCF Applicants proposing the modification of an existing Non-Tower WCF shall obtain a permit from the Township. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.
 - b. Timing of approval for applications that fall under the WBCA. Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application. Within 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. The Township shall notify the WCF Applicant as to completeness of the WCF Application within thirty (30) days of receipt. The timing requirements in this section shall only apply to proposed facilities that fall under the Pennsylvania Wireless Broadband Collocation Act.
 - c. Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Non-Tower WCF or \$1,000, whichever is less.

- (3) The following regulations shall apply to all Non-Tower WCF that do Substantially Change the Wireless Support Structure to which they are attached, or that otherwise do not fall under the Pennsylvania Wireless Broadband Collocation Act:
- a. **Prohibited on Certain Structures.** No Non-Tower WCF shall be located on single-family detached residences, single-family attached residences, or any residential accessory structure.
 - b. **Conditional Use Required.** Any WCF Applicant proposing the construction of a new Non-Tower WCF, or the modification of an existing Non-Tower WCF, shall first obtain a conditional use from the Township. New constructions, modifications, and replacements that do fall under the WBCA shall not be subject to the conditional use process. The conditional use application shall demonstrate that the proposed facility complies with all applicable provisions in the Lower Allen Township Zoning Ordinance.
 - c. **Historic Buildings.** No Non-Tower WCF may be located upon any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is listed on the official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township to be of historical significance.
 - d. **Retention of Experts.** The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
 - e. **Permit Fees.** The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Non-Tower WCF, as well as related inspection, monitoring and related costs.
 - f. **Development Regulations.** Where permitted by federal law, Non-Tower WCF shall be co-located on existing Wireless Support Structures, such as existing buildings or Tower-Based WCF, subject to the following conditions:
 - (1) The total height of any Wireless Support Structure and mounted WCF shall not exceed twenty (20) feet above the maximum height permitted in the underlying zoning district, unless the WCF Applicant applies for, and subsequently obtains, a variance.
 - (2) In accordance with industry standards, all Non-Tower WCF Applicants must submit documentation to the Township justifying the total height of the Non-Tower WCF. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (3) If the WCF Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district, and landscaping shall be required to screen as much of the equipment building as possible. An evergreen screen shall surround the site. The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity. The WCF owner shall be responsible for replacing any dead, destroyed, or intentionally removed, portions of the evergreen screen within fifteen (15) days' notice of such death, destruction, or removal.
 - g. A security fence with a minimum height of six (6) feet and a maximum height of eight (8) feet, with openings no greater than nine (9) inches, shall surround any

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

h. Non-commercial usage exemption. Township residents utilizing satellite dishes and antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the Zoning Ordinance.

i. Design Regulations.

(1) Non-Tower WCF shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township. The Township Board of Commissioners or their designee shall employ the judgement of a “reasonable person” evaluating the totality of the circumstances when determining whether the Stealth Technology chosen by the Applicant appropriately blends in with the surrounding area

(2) Omnidirectional or whip communications Antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter.

(3) Directional or panel communications antennas shall not exceed eight (8) feet in height or three (3) feet in width.

(4) Cylinder-type antennas shall not exceed ten (10) feet in length and not exceed twelve (12) inches in diameter and shall be of a color that is identical or similar to the color of the supporting structure to make the antenna and any related accessory equipment visually unobtrusive.

(5) Satellite and microwave dishes shall not exceed ten (10) feet in diameter. Dish antennas greater than three (3) feet in diameter shall be screened with an appropriate architectural treatment that is compatible with or integral to the architecture or building to which they are attached. This screening requirement shall not apply to dishes located upon towers.

j. Removal, Replacement and Modification.

(1) The removal and replacement of Non-Tower WCF and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not Substantially Change the overall size of the WCF or the numbers of antennae.

(2) Any material modification to a WCF shall require notice to be provided to the Township, and possible supplemental permit approval to the original permit or authorization.

k. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(4) Regulations Applicable to all Non-Tower WCF located in the Public Rights-of-Way.

In addition to the Non-Tower WCF provisions listed in Section B of 220-207, the following regulations shall apply to Non-Tower WCF located in the public rights-of-way:

- a. Co-location. Non-Tower WCF in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. If co-location is not technologically feasible, the WCF Applicant shall locate its Non-Tower WCF on existing poles or freestanding structures that do not already act as Wireless Support Structures with the Township's approval.
- b. Design Requirements:
 - (1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - (2) Antenna and Related Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- c. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- d. Equipment Location. Non-Tower 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:
 - (1) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within an easement extending onto a privately-owned lot;
 - (2) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (4) Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner.
 - (5) Any proposed underground vault related to Non-Tower WCF shall be reviewed and approved by the Township.
- e. Relocation or Removal of Facilities. Within two (2) months following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;

- (2) The operations of the Township or other governmental entity in the Right-of-Way;
- (3) Vacation of a street or road or the release of a utility easement; or
- (4) An Emergency as determined by the Township.

C. General and Specific Requirements for All Tower-Based Wireless Communications Facilities.

- (1) The following regulations shall apply to all Tower-Based Wireless Communications Facilities, excluding any Tower-Based WCF that is less than seventy (70) feet in height and owned and operated by a federally licensed amateur radio status operator.
 - a. Standard of Care. Any Tower-Based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including the Pennsylvania Uniform Construction Code. Any Tower-Based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
 - b. Notice. Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The WCF Applicant shall provide proof of the notification to the Township.
 - c. In Certain Zoning Districts Conditional Use Authorization Required. Tower-Based WCF are permitted in MUN Mixed-Use Neighborhood District, R-1 Single-Family Established Residential District, R-2 Single-Family Rural Residential District, and R-3 Multifamily Residential District, by conditional use and at a height necessary to satisfy their function in the WCF Applicant's wireless communications system. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF Applicant shall demonstrate that the antenna/tower/pole for the Tower-Based WCF is the minimum height necessary for the service area.
 - (1) Prior to Board's approval of a conditional use authorizing the construction and installation of Tower-Based WCF, it shall be incumbent upon the WCF Applicant for such conditional use approval to prove to the reasonable satisfaction of the Board that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment such as redoes, repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable alternative location exists.
 - (2) The conditional use application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.
 - (3) 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.

- (4) Where the Tower-Based WCF is located on a property with another principal use, the WCF Applicant shall present documentation to the Board of Commissioners that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.
 - (5) The conditional use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions in this section.
- d. Engineer Inspection. Prior to the Township's issuance of a permit authorizing construction and erection of a Tower-Based WCF, the Applicant shall testify at the conditional use hearing that it will obtain written certification from a structural engineer registered in Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.
 - e. Visual Appearance and Land Use Compatibility. Tower-Based WCF shall employ Stealth Technology which may include the tower portion to be painted silver or another color approved by the Board of Commissioners, or shall have a galvanized finish. All Tower-Based WCF and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Board of Commissioners shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques. The Township Board of Commissioners or their designee shall employ the judgement of a "reasonable person" evaluating the totality of the circumstances when determining whether the Stealth Technology chosen by the Applicant appropriately blends in with the surrounding area.
 - f. Co-location and siting. An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building, or sited on land owned and maintained by Lower Allen Township. The Board of Commissioners may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the commercial communications antenna(s) on an existing structure. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers of a height equal to or greater than the proposed WCF within a one quarter ($\frac{1}{4}$) of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - (1) The proposed antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - (2) The proposed antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.

- (3) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
- (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- g. **Permit Required for Modifications.** To the extent permissible under applicable state and federal law, any WCF Applicant proposing the modification of an existing Tower-Based WCF, which increases the overall height of such WCF, shall first obtain a building permit from the Township. Non-routine modifications shall be prohibited without such permit.
- h. **Gap in Coverage.** A WCF Applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Tower-Based WCF.
- i. **Additional Antennae.** Where permitted by federal law, as a condition of approval for all Tower-Based WCF, the WCF Applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on Tower-Based WCF where technically and economically feasible. The owner of a Tower-Based WCF shall not install any additional antennae without obtaining the prior written approval of the Township.
- j. **Wind.** Any Tower-Based WCF structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222), as amended.
- k. **Height.** Any Tower-Based WCF shall be designed at the minimum functional height. In all Zoning Districts the maximum height of any new Tower-Based WCF shall be two hundred (200) feet. An existing tower may be modified or extended to a height not to exceed a total height of two hundred fifteen (215) feet, to accommodate the collocation of additional communications antennas. Tower-Based WCF in the public rights-of-way shall not exceed the average height of other poles in the public rights-of-way, such as light poles or utility poles.

WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

- l. **Related Equipment.** Either one single-story wireless communications equipment building not exceeding 500 square feet in area or up to five metal boxes placed on a concrete pad not exceeding 10 feet by 20 feet or other method of approved installation in area housing the receiving and transmitting equipment may be located on the site for each unrelated company sharing commercial communications antenna(e) space on the Tower-Based Wireless Communications Facility.
- m. **Public Safety Communications.** No Tower-Based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- n. **Maintenance.** The following maintenance requirements shall apply:

- (1) Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents, and utilize the best available technology for preventing failures and accidents.
- o. Radio Frequency Emissions. A Tower-Based WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
 - p. Historic Buildings or Districts. A Tower-Based WCF shall not be located upon a property, and/or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Township.
 - q. Signs. All Tower-Based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
 - r. Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Manager.
 - s. Noise. Tower-Based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
 - t. Aviation Safety. Tower-Based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
 - u. Retention of Experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
 - v. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Tower-Based WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within 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.
 - w. Non-Conforming Uses. Non-conforming Tower-Based WCF which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at

their former location, but must otherwise comply with the terms and conditions of this section.

- x. Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
 - (1) All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (2) If the WCF and/or accessory facility is not removed within 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.
 - (3) Any unused portions of Tower-Based WCF, 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 WCF previously removed.
- y. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Tower-Based WCF, as well as related inspection, monitoring, and related costs.
- z. FCC License. Each entity that owns or operates a Tower-Based WCF over forty (40) feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- aa. Insurance. Each entity that owns or operates a Tower-Based WCF greater than forty (40) feet in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF. Each Entity that owns or operates a Tower-Based WCF forty (40) feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each Tower-Based WCF.
- bb. Indemnification. Each entity that owns or operates a Tower-Based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the entity, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Tower-Based WCF. Each entity that owns or operates a Tower-Based WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of Tower-Based WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- cc. Engineer signature. All plans and drawings for a Tower-Based WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

dd. Financial security. Prior to receipt of a zoning permit for the construction or placement of a Tower-Based WCF, the WCF Applicant shall provide to the Township financial security sufficient to guarantee the removal of the Tower-Based WCF, but in no case less than 20% of construction costs. Said financial security shall remain in place until the Tower-Based WCF is removed.

(2) The following regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Public Rights-of-Way:

a. Development Regulations.

(1) Tower-Based WCF shall not be located in, or within seventy-five (75) feet of, an area in which utilities are primarily located underground.

(2) Tower-Based WCF are permitted outside the public Rights-of-Way in the following zoning districts, subject to the above prohibition:

- i. C-1 Neighborhood Commercial District
- ii. C-2 General Commercial District
- iii. C-3 Planned Business Center District
- iv. C-4 Regional Commercial District
- v. I-1 General Industrial District
- vi. I-2 Mineral Recovery District
- vii. I-3 Industrial/Commercial District

(3) Tower-Based WCF are permitted by conditional use, outside the public Rights-of-Way, subject to the prohibition in 220-207(C)(2)(1), as well as in 220-207(C)(1)(c), in the following zoning districts:

- i. MUN Mixed-Use Neighborhood District.
- ii. R-1 Single Family Established Residential District
- iii. R-2 Single Family Rural Residential District
- iv. R-3 Multifamily Residential District

(4) Sole use on a lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in the Township Zoning Code.

(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 use, except residential, subject to the following conditions:

- (a) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.
- (b) Minimum lot area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting if the proposed WCF is greater than forty (40) feet in height.
- (c) Minimum setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-

way line shall be equal to 100% of the height of the Tower-Based WCF or the minimum front yard setback of the underlying zoning district, whichever is greatest. Where the site on which a Tower-Based WCF is proposed to be located is contiguous to an educational use, child day-care facility, or residential use, the minimum distance between the base of a Tower-Based WCF and any such adjoining uses shall equal two hundred fifty (250) feet, regardless of the height of the Tower-Based WCF, unless it is demonstrated to the reasonable satisfaction of the Board that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants.

b. Design Regulations.

- (1) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township. The Township Board of Commissioners or their designee shall employ the judgement of a "reasonable person" evaluating the totality of the circumstances when determining whether the Stealth Technology chosen by the Applicant is appropriate for the Township.
- (2) To the extent permissible by law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Township.
- (3) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.
- (4) Any Tower-Based WCF over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

c. Surrounding Environs.

- (1) The WCF Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- (2) The WCF Applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

d. Fence/Screen.

- (1) A security fence with a minimum height of six (6) feet and a maximum height of eight (8) feet, with openings no greater than nine (9) inches, shall completely surround any Tower-Based WCF greater than forty (40) feet in height, as well as guy wires, or any building housing WCF equipment.
- (2) Landscaping shall be required to screen as much of a newly constructed Tower-Based WCF as possible. The Board of Commissioners may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Board, they achieve the same degree of screening. Existing vegetation shall be preserved to the maximum extent possible.
 - (a) When evergreen screening is utilized, the evergreen screen shall be a minimum height of six (6) feet at planting and shall be grown to a minimum of fifteen (15) feet at maturity. The WCF owner shall be responsible for replacing any dead, destroyed, or intentionally removed, portions of the

evergreen screen within fifteen (15) days' notice of such death, destruction, or removal.

- e. Accessory Equipment.
 - (1) Ground-mounted Related Equipment associated to, or connected with, a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technologies, as described above.
 - (2) All Related Equipment, utility buildings and accessory structures shall be compatible with the height and appearance of other buildings and structures in the immediate area.
 - f. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Tower-Based WCF. The access road shall be a dust-free all-weather surface for its entire length. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
 - g. Parking. For each Tower-Based WCF greater than forty (40) feet in height, there shall be two off-street parking spaces.
 - h. Inspection. The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (3) The following regulations shall apply to Tower-Based Wireless Communications Facilities located in the Public Rights-of-Way.
- a. Location and development standards.
 - (1) Tower-Based WCF in the public rights-of-way shall not be sited within one hundred (100) feet of a subdivision in which, or a street along which, all utilities are buried underground.
 - (2) Tower-Based WCF in the public rights-of-way shall not be located in front of the façade of any structure.
 - (3) Tower-Based WCF forty (40) feet or shorter in height shall be permitted along certain collector roads and arterial roads throughout the Township, regardless of the underlying zoning district, provided that they are not situated within fifty (50) feet of an area in which utilities are underground. A map of such permitted roads is kept on file at the Township Zoning Office.
 - b. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
 - c. Equipment Location. Tower-Based WCF 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:

- (1) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - (2) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (4) Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner.
 - (5) Any underground vaults related to Tower-Based WCFs shall be reviewed and approved by the Township.
- d. Design regulations.
- (1) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township. The Township Board of Commissioners or their designee shall employ the judgement of a "reasonable person" evaluating the totality of the circumstances when determining whether the Stealth Technology chosen by the Applicant is appropriate for the Township.
 - (2) Tower-Based WCF in the public ROW shall not exceed forty (40) feet in height.
 - (3) To the extent permissible under state and federal law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Township, and shall not increase the overall height of the Tower-Based WCF to more than forty (40) feet.
 - (4) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.
- e. 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 Tower-Based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the 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:
- (1) The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
 - (2) The operations of the Township or other governmental entity in the right-of-way;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An emergency as determined by the Township.
- f. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Tower-Based WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW

management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each Tower-Based WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

SECTION IV. Miscellaneous

- A. Police powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.
- B. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
- C. Effective Date. This Ordinance shall become effective thirty (30) days after enactment by the Board of Commissioners of Lower Allen Township.

ENACTED AND ORDAINED this 24th day of October, 2016.

ATTEST:

LOWER ALLEN TOWNSHIP
BOARD OF COMMISSIONERS:

(Assistant) Secretary

(Vice) President