

**THROOP BOROUGH
ORDINANCE NUMBER 12 OF 2021**

AN ORDINANCE OF THROOP BOROUGH, LACKAWANNA COUNTY, PENNSYLVANIA
AMENDING THE THROOP BOROUGH ZONING ORDINANCE OF JANUARY 28, 2021,
FOR THE PURPOSE OF ADOPTING THE MOST RECENT REGULATIONS REGARDING
WIRELESS COMMUNICATION FACILITIES IN ACCORDANCE WITH PA STATE ACT 50
OF 2021.

SECTION 1

ARTICLE 2, DEFINITIONS, SECTION 203 DEFINITIONS OF TERMS, IS HEREBY AMENDED TO DELETE THE FOLLOWING TERMS:

COMMERCIAL COMMUNICATION ANTENNA:

Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio services, or any wireless communication signals, including without rotation, omni-directional or whip antennas and directional or panel antennas, owned and operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residences mounted satellite dishes or television antennas or amateur radio equipment, including without limitation, ham or citizen band radio antennas.

COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna.

COMMERCIAL COMMUNICATIONS FACILITY

The components normally associated with the use and operation of a Commercial Communication Antenna including a Commercial Communication Tower and Commercial Communications Equipment Building.

COMMERCIAL COMMUNICATION TOWER

A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support a Commercial Communication Antenna.

COMMERCIAL COMMUNICATIONS TOWER; HEIGHT:

The vertical distance measured from the ground to the highest point on a communications Tower, including antennas mounted on the tower.

SECTION 2

ARTICLE 2, DEFINITIONS, SECTION 203 DEFINITIONS OF TERMS, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING TERMS:

A. *Accessory Equipment*—any equipment serving or being used in conjunction with a *Wireless*

Communications Facility or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

- B. *Antenna* — an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.
- C. *Collocation*—the mounting of one or more *WCFs*, including *Antennas*, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a *WCF* on that structure.
- D. *Equipment Compound*—an area surrounding or adjacent to a *Wireless Support Structure* within which base stations, power supplies, or *Accessory Equipment* are located.
- E. *FCC*—Federal Communications Commission.
- F. *Modification or Modify*—the improvement, upgrade or expansion of existing *Wireless Communications Facilities* or base stations on an existing *Wireless Support Structure* or the improvement, upgrade, or expansion of the *Wireless Communications Facilities* located within an existing *Equipment Compound*, if the improvement, upgrade, expansion or replacement does not *Substantially Change* the physical dimensions of the *Wireless Support Structure*.
- G. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—*Wireless Communications Facilities* that are *Collocated* on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower.
- H. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* -- the replacement of existing *Wireless Communications Facilities* on an existing *Wireless Support Structure* or within an existing *Equipment Compound* due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the *Wireless Communications Facilities* initially installed and that does not substantially change the physical dimensions of the existing *Wireless Support Structure*.
- I. *Small Wireless Communications Facility* – a *Wireless Communications Facility* that meets the following criteria:
 - (1) The *Wireless Support Structure* on which *Antenna* facilities are mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures, or
 - (iii) is not extended to a height of more than 50 feet or by more than 10 percent above its height prior to the *Collocation* of any *WCF* as a result of the *Collocation* of new *Antenna* facilities; and

(2) Each *Antenna* associated with the deployment (excluding the *Accessory Equipment*) is no more than three cubic feet in volume; and

(3) All *Accessory Equipment* associated with the *Wireless Support Structure* including the wireless equipment associated with the *Antenna* and any pre-existing associated equipment on the *Wireless Support Structure*, is cumulatively no more than 28 cubic feet in volume.

(4) The *Wireless Communications Facility* does not require *Antenna* structure registration under 47 CFR Part 17;

(5) The *Wireless Communications Facility* is not located on Tribal lands, as defined under 36CFR 800.16(x); and

(6) The *Wireless Communications Facility* does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

J. *Stealth Technology* — Camouflaging methods applied to *Wireless Communications Facilities* and *Accessory Equipment* which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted *Antennas*, building-mounted *Antennas* painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

K. *Substantial Change* – A modification substantially changes the physical dimensions of a support structure if it meets any of the following criteria:

1. For support structures other than towers in the public rights-of-way, if it increases the original height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other existing towers or base stations, if it increases the original height of the structure by more than 10% or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances.
2. For support structures other than towers in the public rights-of-way, if it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other existing towers or base stations, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. For any eligible support structure, if it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment

cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or over all volume than any other ground cabinets associated with the structure;

4. If it entails any excavation or deployment outside the current site.⁹
- L. *Technically Feasible* – By virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a material reduction in the functionality of the *Small Wireless Communications Facility*.
- M. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—any structure that is used for the primary purpose of supporting one or more *Antennas*, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying *Antenna* and *Accessory Equipment*.
- N. *Wireless Communications Facility (WCF)*— an *Antenna* facility or a *Wireless Support Structure* that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- O. *Wireless Communications Facility Applicant (WCF Applicant)* -- Any person that applies for a *Wireless Communications Facility* building permit, zoning approval and/or permission to use the public ROW or other Borough-owned or third-party land or property.
- P. *Wireless Support Structure*—a pole, tower, base station, or other building, whether or not it has an existing *Antenna* facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

SECTION 3

ARTICLE 5, ZONING DISTRICT REGULATIONS, SECTION 503, NONRESIDENTIAL USE TABLE WHICH READS IN PART AS FOLLOWS, IS HEREBY DELETED.

NONRESIDENTIAL USES	R-1	R-2	C-1	C-2	C-3	I-1	I-2	E-1	MU
Commercial Communications Facility	N	N	N	N	N	C	C	C	N
Commercial Communications Antenna (attached to an existing building)	N	N	SE	SE	SE	P	P	P	P
Commercial Communications Antenna (attached to an existing Public Utility Transmission Tower)	N	N	P	P	P	P	P	P	P

SECTION 4

ARTICLE 5, ZONING DISTRICT REGULATIONS, SECTION 503, NONRESIDENTIAL USE TABLE IS HEREBY AMENDED TO INCLUDE THE FOLLOWING:

NONRESIDENTIAL USES	R-1	R-2	C-1	C-2	C-3	I-1	I-2	E-1	MU
Non-Tower Wireless Communications Facility (attached to an existing building, structure or public utility transmission tower)	N	N	SE	SE	SE	P	P	P	P
Small Wireless Communications Facility ¹	P	P	P	P	P	P	P	P	P
Tower-Based Wireless Communications Facility Tower-Based Wireless Communications Facility	N	N	N	N	N	C	C	C	N

¹*Excluding locations in, or within one hundred (100) feet of an area in which all utilities are located underground.*

SECTION 5

ARTICLE 8, SUPPLEMENTAL REGULATIONS IS HEREBY AMENDED TO DELETE SUBSECTION 801.10 WHICH READS AS FOLLOWS:

801.10 COMMERCIAL COMMUNICATION ANTENNAS ATTACHED TO BUILDING OR STRUCTURE

A Commercial Communication Antenna when attached to an existing building or structure shall require approval as a conditional use and shall be subject to the following requirements:

- (1) Commercial Communications Antenna shall not be located or permitted on any building or structure located within a Residential Zoning District.
- (2) A Commercial Communications Antenna mounted on a building or other structure shall not exceed eight (8) feet in height above the existing building or structure and shall not exceed three (3) feet in width.
- (3) A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antennas.
- (4) The applicant shall provide a copy of its current Federal Communication Commission license.

- (5) The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with such mount or location.
- (6) The applicant shall provide evidence of agreements and/or easements necessary to provide access to the building or structure on which the Commercial Communications Antenna is to be mounted.
- (7) The applicant shall provide 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 million per occurrence.
- (8) An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Throop Borough with a copy of the notice to the FCC of intent to cease operations. The six-month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

SECTION 6

ARTICLE 8, SUPPLEMENTAL REGULATIONS IS HEREBY AMENDED TO DELETE SUBSECTION 801.11 WHICH READS AS FOLLOWS:

801.11 COMMERCIAL COMMUNICATION ANTENNAS (CO-LOCATION)

The placement of a Commercial Communication Antenna upon an existing Commercial Communication Tower or an existing Public Utility Transmission tower shall be permitted by right in all nonresidential zoning districts. Said antenna shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Throop Borough with a copy of the notice to the FCC of intent to cease operations. The six-month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

SECTION 7

ARTICLE 8, SUPPLEMENTAL REGULATIONS IS HEREBY AMENDED TO DELETE SUBSECTION 801.12 WHICH READS AS FOLLOWS:

801.10 COMMERCIAL COMMUNICATIONS FACILITY

Commercial Communication Facilities shall be subject to the following requirements.

A. COMMERCIAL COMMUNICATIONS ANTENNA

- (1) Commercial Communications Antenna shall comply with all applicable standards

established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application.

- (2) The applicant shall provide a copy of its current Federal Communication Commission license.

B. COMMERCIAL COMMUNICATION TOWER

- (1) A written statement and graphic depiction that describes and depicts the proposed Tower including the type of construction (monopole, lattice tower, guyed tower), tower height and the provision for co-location;
- (2) The submission of not less than three color photos, no smaller than 8 inches by 10 inches, taken from locations within a three (3) mile radius of the proposed site of a Communications Tower, as selected by Throop Borough and computer enhanced to simulate the as-built appearance of the Tower as it would appear from these locations.
- (3) Certification and documentation from a Pennsylvania registered professional engineer that the proposed Tower will be designed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Pennsylvania Uniform Construction Code and other applicable regulations.
- (4) The name, address, and emergency telephone number for operator of the Tower;
- (5) The applicant shall demonstrate, using technological evidence, that the Tower must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
- (6) All new Towers shall be engineered and constructed to accommodate at least one (1) other user.
- (7) Unless required by the FAA, no Tower may use artificial or strobe lighting. The tower shall be a brownish color (whether painted brown or caused by oxidation or otherwise to lessen its visual impact) up to the height of the tallest nearby trees. Above that height, it shall be painted silver or another color that will minimize its visual impact.
- (8) A Tower shall be setback from all property lines a distance that is not less than one hundred and twenty (120%) percent of the height of the Tower as measured in linear feet.

- (9) An applicant proposing the construction of a Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure or Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-half ($\frac{1}{2}$) mile radius of the proposed Tower site be contacted. The applicant shall supply supporting documentation for not selecting an alternate location.
- (10) All guy wires associated with a Guyed Tower shall be clearly marked at ground level so as to be visible at all times and shall be located within a fenced enclosure.
- (11) No signs shall be mounted on a Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction, provided, however, that a sign shall be affixed to the security fence in an accessible and visible location containing the name and address of the owner of the Tower and a 24-hour emergency telephone number.

C. COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

A Commercial Communications Equipment Building shall meet the governing setback distances applicable to the district in which it is located.

D. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A tower shall be removed from the site within six (6) months of its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the tower and restoring the site:

- (1) The anticipated and/or estimated life of the project;
- (2) The estimated decommissioning costs in current dollars;
- (3) The method and schedule for updating the costs of decommissioning and restoration;
- (4) The method of ensuring that funds will be available for decommissioning and restoration;
- (5) The anticipated manner in which the project will be decommissioned, and the site restored.
- (6) The applicant shall provide an appropriate and adequate demolition bond for purposes of

removing the tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.

- (7) The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

E. INSURANCE REQUIREMENTS

The applicant shall provide 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 million per occurrence covering the Commercial Communications Facility.

SECTION 8

ARTICLE 8, SUPPLEMENTAL REGULATIONS, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING SUBSECTION WHICH READS AS FOLLOWS:

801.57 WIRELESS COMMUNICATION FACILITIES (WCF)

General Requirements for All Wireless Communications Facilities.

A. Standard of Care.

- (1) All *WCFs* shall meet or exceed all applicable standards and provisions of the FAA, the *FCC* and any other agency of the state or federal government with the authority to regulate *Wireless Communications Facilities*, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the *WCF Applicant* and provided to the Borough.
- (2) If such standards or regulations are changed, the owner of the *WCF* shall bring such *WCF* into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the *WCF* at the owner's expense.
- (3) The *WCF Applicant* shall submit proof of compliance with all applicable federal and state standards, including but not limited to those established by the Federal Communications

Commission, as part of any complete *WCF* application.

- B. Engineer Signature. All plans and drawings included in an application for a *WCF* shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state and federal laws and regulations applicable to the proposed *WCF*.
- C. Eligible Facilities Requests.
 - (1) *WCF Applicants* proposing a *Modification* to an existing *WCF* shall be required only to obtain zoning approval permits from the Borough. In order to be considered for such permits, the *WCF Applicant* must submit permit applications to the Borough in accordance with the requirements of the Borough's Zoning Ordinance. Such permit applications shall clearly state that the proposed *Modification* constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit applications shall detail all dimensional changes being made to the *WCF* and *Wireless Support Structure*.
 - (2) Timing of Approval.
 - (a) Within thirty (30) calendar days of receipt of an application for the *Modification* of an existing *WCF*, the Borough Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
 - (b) Within sixty (60) days of receipt of a complete and compliant application for the *Modification* of an existing *WCF*, the Borough Zoning Officer shall issue the required zoning permits authorizing construction of the *WCF*.
- D. Wind and ice. All *WCFs* shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- E. Non-conforming *Wireless Support Structures*. *WCFs* shall be permitted to *Collocate* upon existing non-conforming *Wireless Support Structures*. *Collocation* of *WCFs* upon existing *Wireless Support Structures* is encouraged even if the *Wireless Support Structure* is non-conforming as to use within a zoning district.
- F. Inspections; reports. Inspection reports shall be submitted to the Borough upon request to ensure structural integrity and compliance with applicable federal, state and local codes and regulations.
- G. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a *WCF*, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Borough fee schedule.
- H. Indemnification. Each person that owns or operates a *WCF* shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all

times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the *WCF*. Each person that owns or operates a *WCF* shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a *WCF*. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

- I. Non-commercial usage exemption. Borough residents utilizing satellite dishes, citizen and/or band radios, and *Antennas* for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Section
- J. Historic Buildings. No *Non-Tower WCFs* may be located within one hundred (100) feet of any property, 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, located within a historic district, or is included in the official historic structures list maintained by the Borough.
- K. Abandonment; Removal. In the event that use of a *WCF* is to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. A *WCF* not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned *WCFs*, or portions of *WCFs*, shall be removed as follows:
 - (1) All abandoned or unused *WCFs* and *Accessory Equipment* shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the *WCF* has been deemed abandoned by the Borough, unless a time extension is approved by the Borough.
 - (2) If the *WCF* or *Accessory Equipment* is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Borough, the *WCF* and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the *WCF* regardless of the owner's or operator's intent to operate the *WCF* in the future.

The Borough reserves the right to pursue all available remedies under the law to ensure removal of the *WCF* and restoration of the site at the expense of the owner. Any delay by the Borough in taking action shall not invalidate the Borough's right to take action.
 - (3) Where there are two or more users of a single *WCF*, this provision shall not become effective until all users have terminated use of the *WCF* for a period of twelve (12) months.
- L. Maintenance. The following maintenance requirements shall apply:
 - (1) All *WCFs* shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.

- (2) Such maintenance shall be performed to ensure the upkeep of the *WCF* in order to promote the safety and security of the Borough's residents and in accordance with all applicable Borough, state and federal regulations
- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents. Maintenance logs will be provided to the Borough upon request.

M. Timing of Approval. The following table details the applicable timeframe of approval for each type of WCF application:

Type of <i>WCF</i>/Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of application.	60 calendar days.
<i>Small WCF</i> (Collocated)	10 calendar days from receipt of initial or supplemental application.	60 calendar days.
<i>Small WCF</i> (New or Replacement <i>Wireless Support Structure</i>)	10 calendar days from receipt of initial or supplemental application.	90 calendar days.
<i>Non-Tower WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 calendar days.
<i>Tower-Based WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 calendar days.

SECTION 9

ARTICLE 8, SUPPLEMENTAL REGULATIONS, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING SUBSECTION WHICH READS AS FOLLOWS:

801.58 NON-TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES

Specific Requirements for Non-Tower Wireless Communications Facilities.

- A. The following regulations shall apply to all *Non-Tower WCFs* that do not meet the definition of a *Small WCF*:

(1) Development Regulations.

- (a) The total height of any *Non-Tower WCF* shall not exceed fifteen (15) feet above the height of the *Wireless Support Structure* prior to the *Collocation* of any *WCFs*.
- (b) In accordance with industry standards, all *Non-Tower WCF* applicants must submit documentation to the Borough showing that the proposed *Non-Tower WCF* is designed to be the minimum height technically feasible and justifying the total height of the *Non-Tower WCF*.
- (c) If the *WCF Applicant* proposes to locate the *Accessory Equipment* in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (d) A security fence not to exceed eight (8) feet in height shall surround any separate communications equipment building if such communications equipment building is located at ground level. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(2) Design.

- (a) In order to assist in evaluating the visual impact, the *WCF Applicant* shall provide color photo simulations showing the proposed site of the *Non-Tower WCF* with a photo-realistic representation of the proposed *WCF* as it would appear viewed from the closest residential properties, adjacent roads and from other locations as required by the Borough.
 - (b) *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* utilized by the *WCF Applicant* shall be subject to the approval of the Borough.
 - (c) *Non-Tower WCFs* shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.
 - (d) *Non-Tower WCFs* and *Accessory Equipment* must be of a neutral color that is identical to or closely compatible with the *Wireless Support Structure* so as to make the *WCF* and *Accessory Equipment* as visually unobtrusive as possible. Roof-mounted *Non-Tower WCFs* shall match existing air-conditioning units, stairs, elevator towers or other background as nearly as possible.
- (3) Prohibited on Certain Structures. A *Non-Tower WCF* shall not be located on single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or

any residential accessory structure.

- (4) *Third Party Wireless Support Structures*. Where the *Non-Tower WCF* is proposed for *Collocation* on a *Wireless Support Structure* that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present documentation to the Zoning Officer that the owner of the *Wireless Support Structure* has authorized *Collocation* of the proposed *Non-Tower WCF*.
- (5) *Retention of experts*. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the *WCF* at its sole discretion 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 Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities. At the sole discretion of the Borough Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (6) *Insurance*. Each person that owns or operates a *Non-Tower WCF* shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the *Non-Tower WCF*.
- (7) *Substantial Change*. Any *Substantial Change* to a *WCF* shall require notice to be provided to the Borough Zoning Officer, and possible supplemental permit approval as determined by the Borough Zoning Officer.

SECTION 10

ARTICLE 8, SUPPLEMENTAL REGULATIONS, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING SUBSECTION WHICH READS AS FOLLOWS:

801.59 TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES

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

A. The following regulations shall apply to all *Tower-Based Wireless Communications Facilities* that do not meet the definition of a *Small WCF*.

- (1) *Tower-Based WCFs* are permitted outside the public rights-of-way as a in the following zoning districts as a conditional use, subject to the requirements of this Section:
 - (a) I-1, Light Industrial District.
 - (b) I-2, Heavy Industrial District.
 - (c) E-1 Environmental Conservation District.

- (2) *A Tower-Based WCFs* are permitted outside the public rights-of-way as a special exception and at a height necessary to satisfy their function in the *WCF Applicant's* wireless communications system.
- (a) It shall be incumbent upon the *WCF Applicant* for such approval as a conditional use to prove to the reasonable satisfaction of the Borough Council that the *WCF Applicant* cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available 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, less-intrusive alternative location exists.
 - (b) The conditional use application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the *Tower- Based WCF*, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.
 - (c) The conditional use application shall include aerial photographs of the area within a one-mile radius of the proposed *Tower-Based WCF* and identify all existing *WCFs* in that area.
 - (d) The conditional use application shall be accompanied by 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.
 - (e) The conditional use application shall include evidence 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 nonexistence of a gap in wireless coverage shall be a factor in the Borough Council's decision on an application for approval of *Tower-Based WCF*.
 - (f) Where the *Tower-Based WCF* is located on a property that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present evidence to the Borough Council that the owner of the property has granted an easement or other property right, if necessary, for the proposed *WCF* and that vehicular access will be provided to the facility.
 - (g) The conditional use application shall include a written certification by a structural engineer licensed in the Commonwealth of 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.
 - (h) A conditional use application for a new *Tower-Based WCF* shall

demonstrate that the proposed *Tower-Based WCF* cannot be accommodated on an existing *Wireless Support Structure*. The Borough Council 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 *Antenna(s)* on an existing *Wireless Support Structure*. The *WCF Applicant* shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one (1) 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:

- [i] No existing support structure, building or other structure are located within the geographic area which meet the applicant's engineering requirements.
- [ii] Existing support structures, buildings or other structures are not of sufficient height to meet the applicant's engineering requirements.
- [iii] Existing support structures, buildings or other structures do not have the strength to support the applicant's equipment.
- [iv] The applicant's equipment would cause electromagnetic interference with equipment on the existing support structure, building or other structure.
- [v] Fees, costs or contractual provisions required by the owner in order to share an existing location or to adapt for the applicant are unreasonable. Costs exceeding new construction for a support structure are presumed to be unreasonable.
- [vi] The applicant demonstrates that there are other limiting factors that render other locations unsuitable.
- [vii] The applicant demonstrates that an alternative technology that does not require the use of a support structure, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is not suitable. Costs of alternative technology that exceed costs for the construction of a *Wireless Support Structure* and *Antenna* development shall not be presumed to render the technology unsuitable.

(3) Development Regulations.

- (a) *Tower-Based WCFs* shall not be located in, or within one hundred (100) feet of an area in which all utilities are located underground.
- (b) In no case shall a *Tower-Based WCF* be located within 200 feet of any adjacent residential

zoning district or property used for residential purposes.

- (c) Combined with another use. A *Tower-Based WCF* may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:

- [i] The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the *WCF*.
- [ii] Minimum lot area. The minimum lot shall be not less than one (1) acre to accommodate the *Tower-Based WCF* and *Accessory Equipment*, any guy wires, the equipment building, security fence, and applicable screening.

(4) Design Regulations.

- (a) Height. Any *Tower-Based WCF* shall be designed at the minimum functional height. The maximum total height of a *Tower-Based WCF* which is not located in the public ROW shall not exceed 120 feet, as measured vertically from the ground level to the highest point on the *Tower-Based WCF*, including *Antennas* and subsequent alterations.

(b) Visual Appearance and Land Use Compatibility.

- [i] *Tower-Based WCFs* shall employ *Stealth Technology* which may include the *Wireless Support Structure* being painted a certain color as approved by Borough Council or utilizing a galvanized finish.
- [ii] All *Tower-Based WCFs* and *Accessory 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.
- [iii] The Borough Council 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; prevent 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.

- (c) Anti-Climbing Device. If deemed necessary by the Borough Council, a *Tower-Based WCF* shall be equipped with an anti-climbing device, as approved by the manufacturer.

- (d) 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 equal 120% of the proposed *WCF* structure's height or the applicable principal building setback, whichever is greater.

(5) Surrounding Environs.

- (a) 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.
- (b) The *WCF Applicant* shall submit a soil report to Borough Council complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the *Tower-Based WCF*, and anchors for guy wires, if used.

(6) Fence/Screen.

- (a) A security fence having a height not to exceed eight (8) feet shall completely surround any *Tower-Based WCF* located outside the Public Rights-of-Way, as well as *Accessory Equipment*, guy wires, or any building housing *Accessory Equipment*.
- (b) Landscaping shall be required to screen as much of a newly constructed *Tower-Based WCF* as possible. The Borough Council may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Borough Council, they achieve the same degree of screening.

(7) *Accessory Equipment*.

- (a) *Accessory Equipment* shall not intrude into the minimum setback requirements for the district in which the wireless communication facility is located or exceed a maximum height of 15 feet.
- (b) Ground-mounted *Accessory Equipment* associated or connected with a *Tower-Based WCF* shall not be located within fifty (50) feet of a lot in residential use.
- (c) *Accessory Equipment* associated, or connected, with a *Tower-Based WCF* shall be placed underground or screened from public view using *Stealth Technology*. All ground-mounted *Accessory Equipment*, utility buildings and accessory structures shall be architecturally designed to be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding buildings, structures or landscape.
- (d) Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing *Antenna* space on the *Tower-Based WCF*.

- (8) *Additional Antennas*. As a condition of approval for all *Tower-Based WCFs*, the *WCF Applicant* shall provide the Borough Council with a written commitment that it will allow other service providers to *Collocate Antennas* on the *Tower-Based WCF* where technically and economically feasible. To the extent permissible under state and federal law, the owner of a *Tower-Based WCF* shall not install any additional *Antennas* without complying with the applicable requirements of this Section.

- (9) *FCC License*. Each person that owns or operates a *Tower-Based WCF* shall submit a copy of its current *FCC* license, including the name, address, and Emergency telephone number for the operator of the facility.
- (10) *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.
- (11) *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 Borough Manager.
- (12) *Storage*. The storage of unused equipment, materials or supplies is prohibited on any *Tower-Based WCF* site.
- (13) *Repair of Non-Conforming Tower-Based WCF*. Non-conforming *Tower-Based WCFs* which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this section. The *Collocation of Antennas* is permitted on non-conforming structures.
- (14) *Insurance*. Each person that owns or operates a *Tower-Based WCF* shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the *Tower-Based WCF*.
- (15) *Timing of Approval*.
 - (a) Within thirty (30) calendar days of the date that an application for a *Tower-Based WCF* is filed with the Borough Zoning Officer, the Borough Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
 - (b) Within one hundred fifty (150) days of receipt of a complete application for a *Tower-Based WCF*, the Borough Council shall make a decision to approve or deny the proposed *Tower-Based WCF* and the Borough Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.

SECTION 11

ARTICLE 8, SUPPLEMENTAL REGULATIONS, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING SUBSECTION WHICH READS AS FOLLOWS:

801.60 SMALL WIRELESS COMMUNICATIONS FACILITIES

Regulations Applicable to all *Small Wireless Communications Facilities*. The following regulations shall apply to *Small Wireless Communications Facilities*:

- (1) Location and Development Standards. *Small WCF* are permitted by right from the Borough Zoning Officer in all zoning districts, subject to the requirements of this Section.
 - (2) *Small WCF* in the public ROW requiring the installation of a new *Wireless Support Structure* shall not be located in front of any building entrance or exit.
 - (3) All *Small WCF* shall comply with the applicable requirements of the Americans with Disabilities Act and all Borough requirements applicable to streets and sidewalks.
- B. Time, Place and Manner. Once approved, the Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all *Small WCF* in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- C. Obstruction. *Small WCF* and *Accessory Equipment* shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Borough.
- D. Graffiti. Any graffiti on a *Small WCF*, including the *Wireless Support Structure* and any *Accessory Equipment*, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Borough.
- E. Timing of Approval.
- (1) Within ten (10) calendar days of the date that an application for a *Small WCF* is filed with the Borough Zoning Officer, the Borough shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
 - (2) Within sixty (60) days of receipt of an application for *Collocation* of a *Small WCF* on a preexisting *Wireless Support Structure*, the Borough Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
 - (3) Within ninety (90) days of receipt of an application for a *Small WCF* requiring the installation of a new or replacement *Wireless Support Structure*, the Borough Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
- F. Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a *Small WCF* in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any *WCF* when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the

following circumstances:

- (1) The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
- (2) The operations of the Borough 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 that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Borough.

- G. Reimbursement for ROW Use. In addition to permit fees as described in this section, every *Small WCF* in the ROW is subject to the Borough'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 Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each *Small WCF* shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.
- H. Design standards. All *Small WCF* in the Borough shall comply with the following requirements

1. General Standards For Small Wireless Communications Facilities

- A. All *Small WCFs* shall be installed in and maintained in a workmanlike manner in compliance with the National Electric Safety Code, the National Electrical Code, the structural standards of the American Association of State Highway and Transportation Officials, and any other industry standard applicable to the *WCF*, as applicable.
- B. All *Small WCFs* shall comply with the Americans with Disabilities Act guidelines relating to streets and sidewalks.
- C. *Wireless Support Structures* installed or replaced in order to accommodate attached *Small WCFs* shall be a minimum of two (2) feet from any sidewalk, path or trail and shall not obstruct vehicular, pedestrian, or cyclist traffic or sight lines.
- D. All *Small WCFs* shall comply with applicable federal and state standards regarding pedestrian access and movement.
- E. All *Small WCFs* shall be designed and constructed in an effort to minimize aesthetic impact to the extent *Technically Feasible*. All applications for a *Small WCF* shall identify all design features intended to minimize aesthetic impact.
- F. No *Small WCFs* shall extend beyond the boundaries of the rights-of-way unless approved on a case-by-case basis by the Borough Zoning Officer. If a *Small WCF* or any portion thereof is to be located on private property, the *WCF Applicant* shall provide to the Borough evidence that the

owner of such private property has granted the *WCF Applicant* an easement or other right to construct the *Small WCF*.

- G. All *Small WCFs* shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Communications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

2. Antenna Standards

- A. Any *Antenna* associated with a *Small WCF* shall not exceed three (3) cubic feet in volume.
- B. All pole-top *Antennas* shall be flush-mounted as closely to the top of the *Wireless Support Structure* as *Technically Feasible*.
- C. All *Antennas* shall be of a design, style, and color that matches the *Wireless Support Structure* upon which they are attached.
- D. Any necessary pole-top extension shall be of the minimum height necessary to achieve separation from the existing pole attachments in accordance with the National Electric Safety Code and any other industry standard applicable to the *WCF*.
- E. Any *Antenna* mounted on a lateral standoff bracket shall protrude no more than necessary to meet clearances from the pole and existing pole attachments in accordance with the National Electric Safety Code and any other industry standard applicable to the *WCF*.
- F. If mounted on an existing *Wireless Support Structure*, no *Antenna* shall impair the function of said structure.
- G. *Antenna* placement shall not materially impair light, air, or views from adjacent windows.

3. Accessory Equipment Standards

- A. All *Accessory Equipment* associated with a *Wireless Support Structure* shall not exceed twenty-eight (28) cubic feet in volume. Equipment utilized solely for mitigation of the aesthetic impact of the *Small WCF* or required for utility service shall not be included in the *Accessory Equipment* volume calculation.
- B. *Accessory Equipment* shall be mounted flush to the side of a *Wireless Support Structure*, or as near flush to the side of a *Wireless Support Structure* as *Technically feasible*.
- C. Pole-mounted *Accessory Equipment* shall be mounted so as to provide a minimum of nine (9) feet vertical clearance from ground level.
- D. All *Accessory Equipment* shall be placed underground in residential districts.
- E. *Accessory Equipment* shall be of a color that matches the *Wireless Support Structure* upon which

such *Accessory Equipment* is mounted.

- F. All *Accessory Equipment* shall be contained within a single equipment shroud or cabinet. Such equipment shroud or cabinet shall be of the smallest dimensions *Technically Feasible*.
- G. All *Small WCFs* shall post a sign with a maximum size of 1.5 square feet 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 shall be that required by the FCC or any other federal or state agency. All signage associated with a *Small WCF* shall be clearly shown in the application and shall be subject to approval by the Borough Zoning Officer.
- H. No *Accessory Equipment* shall feature any visible lighting, including flashing indicator lights, unless required by state or federal law.

4. Wiring Standards

- A. Exposed wiring is prohibited on any *Small WCF*, *Accessory Equipment*, or *Accessory Equipment* enclosure.
- B. Transmission, fiber, power cables and any other wiring shall be contained within any *Wireless Support Structure* for which such concealment is *Technically Feasible*. If such wiring cannot be contained within the *Wireless Support Structure*, all wiring shall be contained within conduit or U-guard that is flush-mounted to the *Wireless Support Structure*.
- C. All wiring shall be installed tautly and without excessive slack or extra cable storage on the *Wireless Support Structure*.
- D. Any conduit or U-guard shall be of a color that matches the *Wireless Support Structure* to which the *Small WCF* is attached.
- E. Loops of extra wiring shall not be attached to any *Wireless Support Structure*.

5. Wireless Support Structure Standards

1. Replacement Wireless Support Structures

- a. The maximum height of any proposed replacement *Wireless Support Structure* shall be: 1) no more than ten (10%) percent taller than the tallest existing *Wireless Support Structure* in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed *Small WCF*; or 2) fifty (50) feet above ground level, whichever is less.
- b. Any replacement *Wireless Support Structure* shall be of comparable materials and design to the existing *Wireless Support Structure* being replaced except as otherwise required by the pole owner.
- c. Any replacement *Wireless Support Structure* shall be placed within a five (5) foot radius of the existing *Wireless Support Structure* being replaced.

- d. Any replacement *Wireless Support Structure* shall be designed to accommodate all uses that existed on the *Wireless Support Structure* being replaced. As part of an application for a *Small WCF*, the applicant shall provide documentation from a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the replacement *Wireless Support Structure*, *Small WCF*, and prior existing uses shall be structurally sound.

2. New Wireless Support Structures

- a. The maximum height of any new *Wireless Support Structure* shall be: 1) no more than ten (10%) percent taller than the tallest existing *Wireless Support Structure* in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed *Small WCF*; or 2) fifty (50) feet above ground level, whichever is less.
- b. Any new *Wireless Support Structure* shall be of comparable materials and design to adjacent *Wireless Support Structures* except as required by the pole owner.
- c. To the extent *Technically Feasible*, no new *Wireless Support Structure* shall be installed:
 - i. In the Front Façade Area of any residential structure;
 - ii. Within ten (10) feet of the edge of any driveway; or
 - iii. In the public rights-of-way directly opposite any driveway.
- d. *Decorative Poles*:
 - i. *Decorative Poles* shall be required:
 - 1. For the replacement of any existing *Decorative Pole*; and
 - 2. In any zoning district where all utilities are required to be placed underground on a non-discriminatory basis.
 - ii. For any replacement *Decorative Pole*, the new *Decorative Pole* shall match the existing *Decorative Pole* in shape, design, color, and material to the extent *Technically Feasible*. The Borough shall have final approval of any such replacement *Decorative Pole*.
 - iii. No *Small WCF* shall be permitted on an existing *Decorative Pole* unless the applicant provides documentation showing that such *Decorative Pole* is the only *Technically Feasible* location for placement and that no suitable alternative sites exist. The *WCF Applicant* shall provide documentation from a structural engineer that said *Decorative Pole* can support the additional loads.

SECTION 12 SEVERABILITY

If any article, section, subsection, paragraph sentence or phrase of this Ordinance is for any reason declared to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

SECTION 13 REPEALER

All other ordinances, or parts thereof, which are inconsistent or in conflict with this Ordinance are also hereby repealed to the extent of any inconsistency or conflict.

SECTION 14 EFFECTIVE DATE

This Ordinance shall become effective from the date of its approval and enactment, as set forth in Section 12.

SECTION 15 ENACTMENT

APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF THROOP ON THE 12th DAY OF OCTOBER 2021.



Richard Kucharski
Council President



Joe Tropiak
Mayor

ATTEST:



Renee O'Malley
Borough Secretary