

**TOWNSHIP OF EAST HANOVER
DAUPHIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2015-02

AN ORDINANCE OF THE TOWNSHIP OF EAST HANOVER, DAUPHIN COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF THE TOWNSHIP OF EAST HANOVER, 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 COMMUNICATION TOWERS AND COMMUNICATION ANTENNAS; PROVIDING FURTHER FOR THE REGULATION OF SUCH TOWERS AND ANTENNAS 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 Supervisors of the Township of East Hanover, Dauphin 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

The definition of "Communication Antenna Tower" is hereby repealed and removed as definitions from Section 112 of the East Hanover Township Zoning Ordinance.

SECTION II. Amendment to Section 112(C), Specific Words and Phrases of the Zoning Ordinance

Section 112(C) of the Zoning Ordinance is hereby amended to include the following definitions to the "Specific Words and Phrases" 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 include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include a Communication Tower as defined below.

2. *Co-location*—the mounting of one or more Antennas on an existing Communication Tower, or on any structure that already supports at least one Communication Antenna.
3. *Communication Antenna*---all Antennas that are not Communication Towers as defined herein
4. *Communication Tower*—any 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, utility poles and light poles. DAS hub facilities are considered to be Communication Towers.
5. *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.
6. *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.
7. *FCC*—Federal Communications Commission.
8. *Height of a Communication Tower* - the vertical distance measured from the ground level, including any base pad, to the highest point on a Communication Tower, including antennas mounted on the tower and any other appurtenances.
9. *Monopole*—an Antenna or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connecting appurtenances.
10. *Related Equipment*—any piece of equipment related to, incidental to, or necessary for, the operation of a Communication Tower or Communication Antenna. By way of illustration, not limitation, Related Equipment includes generators and base stations.
11. *Right-of-Way or ROW*—the surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than streets that are owned by the Township. The phrase “in the Right(s)-of-Way” means in, on, over, along, above and/or under the Right(s)-of-Way. For the purpose of this ordinance, ROW shall include streets and roads owned by Dauphin County, the Commonwealth of Pennsylvania, and any other Pennsylvania state agencies.

12. *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.
13. *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 Communications Tower 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 Communications Towers in the rights-of-way, it increases the height of the facility by more than 10% or 10 feet, whichever is greater; (2) for Communications Tower 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 Communications Tower 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 or deployment outside the current site of the Communications Tower; or (6) it does not comply with conditions associated with prior approval of construction or modification of the Communications Tower unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.
14. *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)
15. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
16. *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.
17. *Wireless Communications Facility Applicant (WCF Applicant)*—any person that applies for a communication antenna or tower building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Township owned land or property.
18. *Wireless Support Structure*—a freestanding structure, such as a Communication Tower or any other support structure that is primarily constructed to support the placement or installation of a wireless communications facility.

SECTION III. Amendment to Section 200.2.10, Permitted Uses in the Zoning Ordinance

Section 200.2.10 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 200.2.10. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION IV. Amendment to Section 201.2.10, Permitted Uses in the Zoning Ordinance

Section 201.2.10 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 201.2.10. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION V. Amendment to Section 202.2.7, Permitted Uses in the Zoning Ordinance

Section 202.2.7 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 202.2.7. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION VI. Amendment to Section 203.2.6, Permitted Uses in the Zoning Ordinance

Section 203.2.6 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 203.2.6. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION VII. Amendment to Section 204.2.6, Permitted Uses in the Zoning Ordinance

Section 204.2.6 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 204.2.6. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION VIII. Amendment to Section 210.2.16, Permitted Uses in the Zoning Ordinance

Section 210.2.16 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 210.2.16. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION IX. Amendment to Section 211.2.13, Permitted Uses in the Zoning Ordinance

Section 211.2.13 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 211.2.13. Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION X. Amendment to Section 212.2.5, Permitted Uses in the Zoning Ordinance

Section 212.2.5 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 212.2.5 Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION XI. Amendment to Section 220.2.19, Permitted Uses in the Zoning Ordinance

Section 220.2.19 of the East Hanover Township Zoning Ordinance is hereby amended to read as follows:

- 220.2.19 Communication Antennas that are co-located upon existing structures, subject to the requirements of Section 418 of the zoning ordinance.

SECTION XII. Repealer and Adoption of New Communication Antenna and Communication Tower Provisions

- A. The terms, conditions, and provisions of Section 418 of the East Hanover Township Zoning Ordinance are hereby REPEALED and replaced in their entirety with a new Section 418 entitled and provided for as follows:

Section 418 Communication Towers and Communication Antennas

418.1. 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 Communication Towers and Communication Antennas in East Hanover Township (referred to herein as the "Township"). While the Township recognizes the importance of Communication Towers and Communication

Antennas 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 Communication Towers and Communication Antennas while regulating their location and number so as to ensure the provision for necessary services;
 - B. Provide for the managed development of Communication Towers and Communication Antennas 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 Communication Antennas and Communication Towers 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, cable Wi-Fi 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 commercial communications antennas and related facilities on existing towers;
 - F. Promote the health, safety and welfare of the Township's residents.

418.2. General and Specific Requirements for Communication Antennas

1. The following regulations shall apply to all Communication Antennas:
 - A. Permitted by conditional use in all zones subject to regulations. Communication Antennas shall be located on municipally owned poles and traffic lights. If such placement is not possible, Communication Antennas are permitted by conditional use in all zones subject to the restrictions and conditions prescribed below and subject to applicable permitting by the Township.
 - B. Non-conforming Wireless Support Structures. Communication Antennas shall be permitted to co-locate upon non-conforming Communication Towers and other non-conforming structures. Co-location of Antennas upon existing

Communication Towers is encouraged even if the Communication Tower is non-conforming as to use within a zoning district.

- C. Standard of care. Any Communication Antenna shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any Communication Antenna 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.
- D. Wind. All Communication Antenna 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).
- E. Aviation safety. Communication Antennas shall comply with all federal and state laws and regulations concerning aviation safety.
- F. Public safety communications. Communication Antennas shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- G. Radio frequency emissions. A Communication Antenna shall not, by itself or in conjunction with other Antennas, 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.
- H. Removal. In the event that use of a Communication Antenna 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 Antennas or portions of Antennas shall be removed as follows:
 - a. All abandoned or unused Antennas 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.
 - b. If the Antenna 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 Antenna and/or associated facilities and equipment

may be removed by the Township and the cost of removal assessed against the owner of the Antenna.

- I. Insurance. Each Person that owns or operates a Communication Antenna 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 Communication Antenna.
- J. Indemnification. Each person that owns or operates a Communication Antenna 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 person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Communication Antenna. Each person that owns or operates a Communication Antenna 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 Communication Antenna. 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.
- K. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - a. The Communication Antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- L. Reservation of rights. In accordance with applicable law and as set forth in more detail in subsequent design and development standards below, the Township reserves the right to deny an application for the construction or placement of any Communication Antenna for numerous factors, which include but are not limited to, visual impact, design, and safety standards.

418.3. Communication Antennas Under PA WBCA

The following regulations shall apply to all collocated Communication Antenna that do not substantially change the physical dimensions of the Wireless Support Structure to which they are attached and fall under the Pennsylvania Wireless Broadband Collocation Act.

- A. Permit required. WCF Applicants proposing the modification of an existing Communication Tower shall obtain a building 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. Related Equipment. Ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use or zoned residential.
- 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 Communication Antenna or \$1,000, whichever is less.
- D. Timing of approval for applications that fall under the WBCA. The Township shall notify the WCF Applicant as to the completeness of the WCF Application within thirty (30) days of receipt. 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 timing requirements in this section shall only apply to proposed facilities that fall under the Pennsylvania Wireless Broadband Collocation Act.

418.4. Communication Antennas Not Subject to PA WBCA

The following regulations shall apply to all Communication Antennas 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 Communication Antenna 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 Communication Antenna, or the modification of an existing Communication Antenna, shall first obtain a conditional use from the Township. New constructions, modifications, and replacements that do fall under the WBCA shall be 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 East Hanover Township Zoning Ordinance.
- C. Historic Buildings. No Communication Antenna 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 Antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these Antenna provisions. The WCF Applicant and/or owner of the Antenna 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 Communication Antenna, as well as related inspection, monitoring and related costs.
- F. Development Regulations. Communication Antennas shall be co-located on existing Wireless Support Structures, such as existing buildings or Communication Towers, subject to the following conditions:
 - a. The total height of any Wireless Support Structure and mounted Antenna 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.
 - b. In accordance with industry standards, all Communication Antenna Applicants must submit documentation to the Township justifying the total height of the Communication Antenna. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - c. 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 screen can be either a hedge (planted three (3) feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). 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.
- G. A security fence with a minimum height of eight (8) feet 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.

- a. Communication Antennas 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.
- b. Omnidirectional or whip communications antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter.
- c. Directional or panel communications antennas shall not exceed eight (8) feet in height or three (3) feet in width.
- d. 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.
- e. 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.

- a. The removal and replacement of Communication Antennas and/or accessory equipment for the purpose of upgrading or repairing the Antenna is permitted, so long as such repair or upgrade does not substantially change the overall size of the Antenna or the numbers of antennae.
- b. Any material modification to an Antenna 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 Antenna 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 Antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.

418.5. Communication Antennas in the Public Rights-of-Way

1. In addition to the Communication Antenna provisions listed in Section B of 418, the following regulations shall apply to Communication Antennas located in the public rights-of-way:

A. Location and Co-location. Communication Antennas 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 Communication Antenna on existing poles or freestanding structures that do not already act as WCFs with the Township's approval.

B. Design Requirements:

- a. Antenna 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.
- b. 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 Communication Antennas 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. Communication Antennas and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:

- a. In no case shall ground-mounted Related Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within an easement extending onto a privately-owned lot;
- b. 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.

- c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
- d. Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner.
- e. Any proposed underground vault related to Communication Antennas shall be reviewed and approved by the Township.

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 an Antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Antenna when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- a. The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
- b. The operations of the Township or other governmental entity in the Right-of-Way;
- c. Vacation of a street or road or the release of a utility easement; or
- d. An emergency as determined by the Township.

418.6. General and Specific Requirements for All Communication Towers.

1. The following regulations shall apply to all Communication Towers.

A. Standard of Care. Any Communication Tower shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Communication Tower 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 Communication Tower 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. Conditional Use Authorization Required. Communication Towers are permitted in certain zoning districts 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 Communication Tower is the minimum height necessary for the service area.
- a. Prior to Board's approval of a conditional use authorizing the construction and installation of Communication Tower, 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 Communication Tower 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.
 - b. 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.
 - c. The conditional use application shall also be accompanied by documentation demonstrating that the proposed Communication Tower complies with all state and federal laws and regulations concerning aviation safety.
 - d. Where the Communication Tower is located on a property with another principal use, the WCF Applicant shall present documentation to the Board of Supervisors that the owner of the property has granted an easement for the proposed Communication Tower and that vehicular access will be provided to the facility.

- e. The conditional use application shall also be accompanied by documentation demonstrating that the proposed Communication Tower 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 Communication Tower, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the proposed Communication Tower'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. This certification shall be provided during the conditional hearings or at a minimum be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.
- E. Visual Appearance and Land Use Compatibility. Communication Tower shall employ Stealth Technology which may include the tower portion to be painted silver or another color approved by the Board of Supervisors, or shall have a galvanized finish. All Communication Tower 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 Supervisors 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.
- F. Co-location and siting. An application for a new Communication Tower shall demonstrate that the proposed Communication Tower cannot be accommodated on an existing or approved structure or building, or sited on land owned and maintained by East Hanover Township. The Board of Supervisors may deny an application to construct a new Communication Tower 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 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:
- a. 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.

- b. 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.
 - c. 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.
 - d. 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 Communication Tower, which increases the overall height of such Tower, shall first obtain a building permit from the Township. Non-routine modifications shall be prohibited without such a permit.
- H. Gap in Coverage. A WCF Applicant for a Communication Tower must demonstrate that a significant gap in wireless coverage or capacity exists with respect to all wireless operators in the applicable area and that the type of Tower 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 Communication Tower.
- I. Additional Antennas. As a condition of approval for all Communication Tower, the WCF Applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on Communication Tower where technically and economically feasible. The owner of a Communication Tower shall not install any additional antennae without obtaining the prior written approval of the Township.
- J. Wind. Any Communication Tower 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 Communication Tower shall be designed at the minimum functional height. In all Zoning Districts the maximum height of any new Communication Tower shall be one hundred ninety-nine (199) 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.
- 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 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 Communication Tower.

- M. Public Safety Communications. No Communication Tower 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:
 - a. Any Communication Tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - b. Such maintenance shall be performed to ensure the upkeep of the Communication Tower 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 Communication Tower shall not, by itself or in conjunction with other Communication Towers, 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 Communication Tower 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 Communication Towers 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 Communication Tower shall be those required by the FCC, or any other federal or state agency.
- R. Lighting. No Communication Tower 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 Secretary.
- S. Noise. Communication Tower 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. Communication Tower 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 Communication Tower 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 Tower 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 Communication Tower 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 Communication Towers shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Communication Tower 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 Communication Tower 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 Communication Tower 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 Communication Towers or portions of Towers shall be removed as follows:
 - a. All unused or abandoned Communication Towers 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.
 - b. If the Communication Tower 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 Tower and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the Tower.

- c. Any unused portions of Communication Tower, 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 Communication Tower 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 Communication Tower, as well as related inspection, monitoring, and related costs.
- Z. FCC License. Each person that owns or operates a Communication Tower 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 person that owns or operates a Communication Tower 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 Communication Tower. Each Person that owns or operates a Communication Tower 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 Communication Tower.
- BB. Indemnification. Each person that owns or operates a Communication Tower 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 person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Communication Tower. Each person that owns or operates a Communication Tower 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 Communication Tower. 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 Communication Tower 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 Communication Tower, the WCF Applicant shall provide to the Township financial security sufficient to guarantee the removal of the Communication Tower. Said financial security shall remain in place until the Communication Tower is removed.

418.7. Communication Towers Located Outside the Public Rights-of-Way.

1. Development Regulations.

- A. Communication Towers shall not be located in, or within one hundred (100) feet of, and area in which utilities are primarily located underground.
- B. Communication Towers are permitted outside the public Rights-of-Way in the following zoning districts by conditional use, subject to the above prohibition:
 - a. C Conservation District
 - b. CR Commercial Recreation District
 - c. HC Highway Commercial District
 - d. I Industrial District
 - e. IC Interchange Commercial District
 - f. RA Rural Agriculture District
- C. Sole use on a lot. A Communication Tower shall be permitted as a sole use on a lot, provided that the underlying lot is a minimum of 6,000 square feet. The minimum distance between the base of a Communication Tower and any adjoining property line or street right-of-way line shall equal 100% of the proposed Tower structure height.
- D. Combined with another use. A Communication Tower 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 Communication Tower.
 - 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 Communication Tower and guy wires, the equipment building, security fence, and buffer planting if the proposed Tower is greater than forty (40) feet in height.

- c. Minimum Setbacks. The minimum distance between the base of a Communication Tower and any adjoining property line or street right-of-way line shall be equal to the total height of the Communication Tower, or the minimum setback of the underlying zoning district, whichever is greater.

E. Design Regulations.

- a. The Communication Tower 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.
- b. To the extent permissible by law, any height extensions to an existing Communication Tower shall require prior approval of the Township.
- c. Any proposed Communication Tower shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.
- d. Any Communication Tower over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

F. Surrounding Environs.

- a. The WCF Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Communication Tower structure shall be preserved to the maximum extent possible.
- b. 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 Communication Tower, and anchors for guy wires, if used.

G. Fence/Screen.

- a. A security fence with a minimum height of eight (8) feet shall completely surround any Communication Tower greater than forty (40) feet in height, as well as guy wires, or any building housing WCF equipment.
- b. Landscaping shall be required to screen as much of a newly constructed Communication Tower as possible. The Board of Supervisors 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) An evergreen screen shall be required to surround the site. The screen can either be a hedge (planted three (3) feet from center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grown to a minimum of fifteen (15) feet at maturity.

H. Accessory Equipment.

- a. Ground-mounted Related Equipment associated to, or connected with, a Communication Tower shall be placed underground or screened from public view using Stealth Technologies, as described above.
- b. All Related Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

I. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Communication Tower. 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 Communication Tower owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

J. Parking. For each Communication Tower greater than forty (40) feet in height, there shall be two off-street parking spaces.

K. Inspection. The Township reserves the right to inspect any Communication Tower 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 Communication Tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

418.8. Communication Towers Located in the Public Rights-of-Way.

1. Development Regulations

A. Location and development standards.

- a. Communication Towers in the public ROW shall not exceed forty (40) feet in height and are prohibited in areas in which utilities are located underground.
 - b. Communication Towers in the ROW shall not be located in the front façade area of any structure.
 - c. Communication Towers in the ROW 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 Communication Towers 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. Communication Towers and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- a. In no case shall ground-mounted Related Equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - b. 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.
 - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - d. Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner.
 - e. Any underground vaults related to Communication Towers shall be reviewed and approved by the Township.
- D. Design regulations.
- a. The Communication Tower 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.

- b. To the extent permissible under state and federal law, any height extensions to an existing Communication Tower shall require prior approval of the Township, and shall not increase the overall height of the Communication Tower to more than forty (40) feet.
 - c. Any proposed Communication Tower 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 three (3) 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 Communication Tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Communication Tower when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- a. The construction, repair, maintenance or installation of any Township or other public improvement in the Right-of-Way;
 - b. The operations of the Township or other governmental entity in the right-of-way;
 - c. Vacation of a street or road or the release of a utility easement; or
 - d. An emergency as determined by the Township.
- F. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Communication Tower 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 Communication Tower 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.

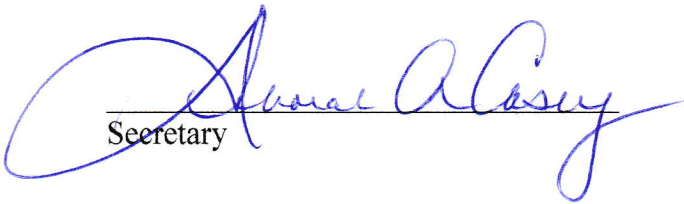
SECTION XIII. Miscellaneous


- 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 five (5) days after enactment by the Board of Supervisors of East Hanover Township

ENACTED AND ORDAINED this 20th day of October, 2015.

ATTEST:

EAST HANOVER TOWNSHIP BOARD OF
SUPERVISORS:


Secretary


Chairman