

TOWNSHIP OF LOWHILL  
LEHIGH COUNTY, PENNSYLVANIA

ORDINANCE # 17 - 2

AN ORDINANCE OF THE TOWNSHIP OF LOWHILL, LEHIGH COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP OF LOWHILL ZONING ORDINANCE, SECTION 2 (DEFINITIONS) TO ADD AND REVISE CERTAIN DEFINITIONS RELATING TO COMMERCIAL COMMUNICATIONS FACILITIES; SECTION 4 THROUGH 8 TO PROVIDE FOR CERTAIN TOWER AND NON-TOWER BASED COMMERCIAL COMMUNICATION FACILITY USE AND BY REVISING ARTICLE 900 (SUPPLEMENTARY REGULATIONS), SECTIONS 963 & 964 (COMMERCIAL COMMUNICATION FACILITIES AND ANTENNAS) TO ADD REGULATIONS FOR TOWER AND NON-TOWER BASED COMMERCIAL COMMUNICATIONS FACILITIES AND TO REGULATE THE LOCATION OF THOSE FACILITIES WITHIN AND OUTSIDE OF TOWNSHIP RIGHT OF WAYS.

*WHEREAS*, the Lowhill Township Board of Supervisors adopted its Zoning Ordinance February 2, 1972, as amended. and;

*WHEREAS*, the Lowhill Township Board of Supervisors desires to amend provisions relating to Utilities and Commercial Communication Facilities and;

*WHEREAS*, the Lowhill Township Board of Supervisors has determined it to be in the best interests of the health, safety, and welfare of the residents of Lowhill Township to so amend the Zoning Ordinance.

*NOW, THEREFORE, BE IT ENACTED AND ORDAINED* by the Board of Supervisors of Lowhill Township, that the Zoning Ordinance of the Township of Lowhill, as amended, be and is hereby further amended as follows:

**SECTION I.           Purpose.**

The purpose of this Ordinance is to establish Uniform standards for the siting, design, permitting use, and maintenance of Commercial Communication Facilities in Lowhill Township.

**SECTION II.           Amendments to Article 300 (Definitions), Section 301 (Definition of Terms)**

- A.     Article 3 (Definitions), Section 301 (Definition of Terms) is hereby amended by adding the following definitions:

1. *Base Station* — A structure, other than a tower, that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time the application is filed, even if the structure was not built for the sole or primary purpose of providing such support. It does NOT include structures that do not, at the time of application, support or house base station components.
2. *Co-location* — the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals (or other transmissions developed in the future) for communications purposes.
3. *DAS or Distributed Antennae System* — a network of spatially or geographically separated antenna nodes that are connected to a common source (hub) through a transport or communication medium in order to provide wireless communication service in a specific locality.
4. *Eligible Facilities Request* — Any request for modification of an existing wireless support structure that involves:
  - A. The collocation of new transmission equipment or non-tower CCF;
  - B. Removal of transmission equipment or non-tower CCF; or
  - C. Replacement of transmission equipment or non-tower CCF. This does not include the replacement of the tower or base station.
5. *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 services provided.
6. *FCC* — Federal Communications Commission
7. *Floodplain soils (alluvial soils)* — soil types found in the latest version of the *Soil Survey of Lehigh County, Pennsylvania*, prepared by the U.S. Department of Agriculture (Natural Resources Conservation Service), dated November 1963, including all updates and revisions as being "on the floodplain" or "subject to flooding." Floodplain Soils include, but are not limited to: Alluvial Land; Alton gravelly loam, flooded; Bowmansville silt loam; Hatboro silt loam; Marsh; Pope loam; Rowland silt loam.
8. *Modification* — the collocation, improvement, upgrade, expansion, removal, or replacement of an antenna or any other transmission equipment associated-with the supporting structure.

9. *Monopole* — a CCF 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 related equipment.
10. *Non-Tower Commercial Communications Facility (Non-tower CCF)* — Any equipment that facilitates the transmission for any FCC licensed or authorized wireless commercial communications service, including but not limited to antennae, transmitters, receivers, cabling, power supplies, and accessory equipment associated with and necessary for their operation. This shall not include support structures, such as monopoles, poles, towers, etc.
11. *Replacement* — The replacement of non-tower commercial communications facilities or transmission equipment 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 commercial communications facility initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.
12. *Right of Way* — Land set aside or designated for public or private streets, roadways, sidewalks, curbs and the installation of public utilities. The term "Right of Way" shall include the ultimate or future Right of Way.
13. *Substantial Change or Substantially Changed* — The modifications or proposed modifications to the physical dimensions of a tower, tower-based CCF, or base station that meet any of the following criteria:
  - A. Towers outside rights-of-way:
    - (1) It increases the height by more than 10% or by the height of one antenna array with the separation from the nearest existing antenna not to exceed twenty (20) feet or, whichever is greater.
    - (2) It protrudes from the edge of the tower more than (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
  - B. Towers inside rights-of-way:
    - (1) It increases the height of the tower by more than ten (10) feet or 10%, whichever is greater
    - (2) It protrudes from the edge of the tower more than six (6) feet
    - (3) The installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinet

- (4) The installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets.
  - C. Base stations (regardless of location):
    - (1) It increases the height of the structure by more than ten (10) feet or 10%, whichever is greater
    - (2) It protrudes from the edge of the structure more than six (6) feet
    - (3) The installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets
    - (4) The installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets
  - D. It involves the installation of more than the standard number of new equipment cabinets for technology involved, but not to exceed four cabinets;
  - E. It entails the excavation or deployment outside the current site of the tower, wireless support structure, or base station;
  - F. It would defeat the existing concealment elements of the tower, wireless support structure, or base station.
  - G. It does not comply with the conditions associated with the prior approval of the tower, wireless support structure, or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds.
14. *Tower-Based Commercial Communications Facility (Tower-Based CCF)* — any structure that is built and used for the sole or primary purpose of supporting one or more FCC-licensed or authorized antennae, and their associated facilities. DAS hub facilities are considered to be tower-based CCFs.
  15. *Tower* — See *Tower-Based Commercial Communications Facility*
  16. *Township* — Lowhill Township, Lehigh County, PA
  17. *Transmission Equipment* — See *Non-Tower Commercial Communications Facility*
  18. *Wireless* — transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

19. *Wireless Commercial Communications Services* — wireless telecommunications services, such as, but not limited to, paging, cellular phones, internet, and other satellite telecommunication, which are generally operated by a service provider for commercial use. This excludes cable television services utilizing satellite delivery.
20. *Wireless Support Structure* — a freestanding structure, such as a Tower-Based CCF, monopole, tower, base station or any other support structure that could support the placement or installation of a Commercial Communications Facility if approved by the Township.

**SECTION III. Amendments to Article 500 (Rural Village District), Section 541 (Permitted Uses)**

Article 500 (Rural Village District), Section 541 (Permitted Uses) is hereby amended by adding the following permitted use:

541.27 Non-Tower Commercial Communications Facility (Non-Tower CCF).

Article 500 (Rural Village District), Section 543 (Special Exception Uses) is hereby amended by adding the following permitted use:

543.12 Tower-Based Commercial Communications Facility (Tower Based CCF).

**SECTION IV. Amendments to Article 600 (Rural District), Section 641 (Permitted Uses)**

Article 600 (Rural District), Section 641 (Permitted Uses) is hereby amended by adding the following permitted use:

641.17 Non-Tower Commercial Communications Facility (Non-Tower CCF).

**SECTION V. Amendments to Article 700 (Rural Conservation District), Section 741 (Permitted Uses)**

Article 700 (Rural Conservation District), Section 741 (Permitted Uses) is hereby amended by adding the following permitted use:

741.16 Non-Tower Commercial Communications Facility (Non-Tower CCF).

**SECTION VI. Amendments to Article 900 (Supplementary Regulations), Section 963 & 964 (Commercial Towers, Antennas and Equipment Buildings)**

Article 900 (Supplementary Regulations) - Section 963 & 964 (Commercial Towers, Antennas and Equipment Buildings) is hereby deleted in its entirety and replaced with the following:

## Commercial Communications Facilities.

This section is applicable to 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 commercial communications services.

### a. Use. Tower-Based Commercial Communications Facilities

#### (1) General Requirements for All Tower-Based Commercial Communications Facilities (CCF).

The following regulations shall apply to all Tower-Based Commercial Communications Facilities:

- (a) Standard of Care. The CCF applicant shall present documentation that the Tower-Based CCF 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, wind loads provisions in ASCE 7-10, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors, and the Electrical Industrial Association / Telecommunications Industry Association. Certification of the design from a Pennsylvania Registered Professional Engineer with expertise in the appropriate discipline is required. Any Tower-Based CCF 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) Structural Requirements.
  - [i] Any Tower-Based CCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI / ETA / TIA 222-G Code, as amended).
  - [ii] A soil report complying with the standards of Appendix I, Geotechnical Investigations, ANSI / EIA / TIA 222-G, as amended, shall be submitted.
  - [iii] The facility will be designed and constructed to withstand 100 year wind speeds and peak gusts for the applicable risk category as specified in ASCE7-10, or current accepted industry standards for facility construction.

- [iv] A copy of the structural analysis, signed and sealed by a registered structural engineer licensed in the Commonwealth of Pennsylvania, shall be submitted to the Township.
- (c) Public Safety Communications. No Tower-Based CCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (d) Maintenance and Inspection. The following maintenance and inspection requirements shall apply:
  - [i] Any Tower-Based CCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - [ii] 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.
  - [iii] Guyed-Towers and other wireless support structures shall be inspected every three (3) years and self-supporting towers / monopoles, shall be inspected every (5) years. All towers shall be inspected after severe wind (Sustained tropical storm or hurricane force winds) or ice storms or other extreme loading conditions. Inspection reports shall prepared by a licensed Professional Engineer and submitted to the Township engineer for review.
- (e) Radio Frequency Emissions. No Tower-Based CCF may, by itself or in conjunction with other CCF's, 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.
- (f) Historic Buildings or Districts. No Tower-Based CCF may be located on a building, structure, or site that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township as being of historic significance.
- (g) Identification. All Tower-Based CCF's shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township. The Township shall be notified of the use or storage of external power sources, such as batteries or fuel tanks.
- (h) Lighting and Signage. No signs or lights shall be mounted on a Tower-Based CCF except as required by law, the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA) or any other governmental agency having jurisdiction over the same. If lighting is

required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Emergency lighting for any accessory facility / building and signage as allowed in subsection (g) above, is permitted, subject to Township review and approval.

- (i) Appearance. Towers and associated equipment shall be designed to harmonize with the surroundings.
- (j) Noise. Tower-Based CCF's 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.
- (k) Aviation Safety. Tower-Based CCF's shall comply with all federal and state laws concerning aviation safety and applicable airport zoning regulations.
- [i] Documentation from the Federal Aviation Administration (FAA) shall be submitted by the applicant for any Tower-based CCF exceeding two hundred (200) feet in height stating that the subject CCF is approved by the FAA.
- [ii] Any applicant for a proposed Tower-based CCF located within a radius of five (5) aerial miles of any airport shall notify said Airport, in writing, of its intent to construct a CCF prior to construction.
- (l) 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 Tower-Based CCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Section. The applicant and/or owner of the Tower-based CCF shall reimburse the Township for all costs of the Township's consultation(s) in providing expert evaluation and consultation in connection with these activities.
- (m) FCC License. The applicant shall submit to the Township a copy of its current Federal Communications Commission (FCC) license, the name, address, emergency number, and operator of the facility.
- (n) Insurance. Each person that owns or operates a Tower Based CCF, shall provide the Township with proof of insurance. 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 of \$1,000,000 occurrence covering the communication facility is required. The Township, its employees, Engineer, Solicitor, Planner, and other relevant professional shall be named additional insured and the certificate



shall provide, as a minimum, that the additional insured shall be notified not less than sixty (60) days in advance of the insurance not being renewed or being cancelled for any reason.

- (o) **Timing of Decision:** Within thirty (30) calendar days of the date that an application for a Tower-Based CCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Where a conditional use approval is required, the governing body shall render a decision within forty-five (45) days after the last hearing before the governing body. All other applications, including land development, for Tower-Based CCF's shall be acted upon within ninety (90) days of the receipt of a fully completed application for the approval of such Tower-Based CCF and the Township shall advise the applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the ninety (90) day review period.
- (p) **Non-Conforming Uses.** Non-conforming Tower-Based CCF's 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.
- (q) **Indemnification.** Each person that owns or operates a tower-based CCF shall, at its sole cost and expense, indemnify, defend, and hold harmless the Township, its elected and appointed officials, employees, engineer, solicitor, planner, agents, and other relevant professional consultants, 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, operations, maintenance, or removal of a Tower-based CCF. The obligation to indemnify, hold harmless, and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorney's fees, reasonable expert fees, court costs, and all other costs of indemnification.
- (r) **Removal .** In the event that use of a Tower-Based CCF 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. If it remains unused for a period of six (6) consecutive months, the Township will provide notice to the owner/operator to remove the tower.

Unused or abandoned Tower-based CCFs or portions of Tower-based CCFs shall be removed as follows:

- [i] All unused or abandoned Tower-Based CCFs, accessory facilities foundations, etc. shall be removed and the site restored and stabilized to match adjacent properties within six (6) months of the cessation of operations at the site or from the time the municipality provides notice, unless a time extension is approved by the Township.
- [ii] If the Tower-based CCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, from the time the municipality provides notice, or within any longer period approved by the Township, the Tower-based CCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the Tower-based CCF.
- [iii] The Township must approve all replacements of portions of a Tower-Based CCF previously removed.

(2) Tower Based CCFs Outside the Rights-of-Way.

The following regulations shall apply to Tower-Based Commercial Communications Facilities located outside the Rights-of-Way:

(a) Development Regulations:

- [i] Allowable Districts. Commercial Communications Facilities are prohibited as follows:
  - [aa] No Tower-based CCF shall be located closer than two hundred fifty (250) feet to an existing residential dwelling or residential zoning district boundary in which CCF's are prohibited.
  - [bb] Tower-based CCF's are prohibited in the Light Industrial, General Commercial, Rural Village, Rural, and Rural Conservation zoning districts.
  - [cc] Tower-based CCF's are permitted by special exception in accordance with the requirements of §604.03 in the General Industrial District.
- [ii] Gap in Coverage. An applicant for a Tower-Based CCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of Tower-based CCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Tower-Based CCF's.

- [iii] Height. Any Tower-Based CCF outside of the rights-of-way, shall be designed at the minimum functional height and shall not exceed a maximum total height of two hundred twenty (220) feet. Height shall include all subsequent additions or alterations.
- [iv] Sole Use on a Lot. A Tower-Based CCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district
- [v] Combined with Another Use. A Tower-Based CCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
  - [aa] The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications facility.
  - [bb] The Tower-based CCF may occupy a leased parcel within a lot meeting the minimum lot size for the zoning district. The leased parcel shall be, at a minimum, the area needed to accommodate the Tower-Based CCF and guy wires, the equipment building, security fence, and buffer planting.
  - [cc] Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district.
  - [dd] Minimum Setbacks. The Tower-Based CCF and accompanying equipment building shall not be located in the minimum front, rear, or side yard setbacks for the applicable zoning district. Further, no Tower-Based CCF shall be located within one hundred (100) feet or the distance of the fall zone, whichever is greater, from any property line or existing street Right of Way or two hundred (200) feet of any occupied building.
  - [ee] Vehicular access to the Tower- Based CCF shall not interfere with parking or circulation on the site.
- [vi] Applicant shall demonstrate, utilizing the most current technological evidence available, that the commercial communications facility (CCF) must be constructed where it is proposed in order to satisfy its function pursuant to the communications industry's technological requirements.
- (b) Co-Location. An application for a new Tower-Based CCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed Tower-Based CCF cannot be accommodated on an existing or approved structure or building. Any

application for approval of a Tower-Based CCF shall include a comprehensive inventory of all existing towers and other suitable structures within a two-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.

(c) Design Regulations:

- [i] The Tower-based CCF shall employ the most current standards available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact.
- [ii] Any height extensions to an existing Tower-Based CCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon land use impact or any other lawful considerations related to the character of the Township.
- [iii] Any proposed Tower-Based CCF shall be designed structurally, electrically, and in all respects to accommodate both the CCF applicant's antennas and comparable equipment for future users. At a minimum the structure and wind load should be able to accommodate a 10% increase in height or one additional array, not to exceed a total height of more than 200'.

(d) Surrounding Environs:

- [i] The Tower-based CCF shall comply with the required yard requirements of the applicable zoning district.
- [ii] The Tower-based CCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Tower-based CCF structure shall be preserved to the maximum extent possible.

(e) Fence/Screen:

- [i] A security fence having a maximum height of eight (8) feet shall completely surround any Tower-Based CCF, guy wires, parking, or any building / structure, housing CCF equipment.
- [ii] An ~~evergreen~~ screen shall be required to surround the site of the proposed Tower-based CCF. The screen shall either be 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 six (6) foot at planting and shall grow to a minimum fifteen (15) feet at maturity. The vegetation utilized should be deer resistant.
- [iii] The Tower-based CCF applicant shall submit a landscape plan for review and approval by the Township for all proposed screening.

- [iv] Alternate forms of screening, other than the landscaping outlined above, may be permitted if reviewed and approved by the Board of Supervisors.
- (f) Accessory Equipment:
  - [i] Where possible, ground-mounted equipment associated to, or connected with, a Tower-Based CCF shall be underground. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground mounted equipment shall be screened from public view.
  - [ii] All 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 and height requirements of the underlying zoning district.
- (g) Additional Antennae. As a condition of approval for all Tower-Based CCFs, the CCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on Tower-Based CCFs where technically and economically feasible. The owner of a Tower-Based CCF shall not install any additional antennae without obtaining the prior written approval of the Township.
- (h) Access Road / Lease Area. Adequate emergency and service access to Tower-Based CCF must be provided. Driveways must comply with the Township's current driveway ordinance & SALDO requirements unless otherwise stated below.
  - [i] Access shall be provided to the facility by means of a public street or easement to/from a public street unless waived in writing by the Lowhill Township Board of Supervisors. The easement shall be a minimum to twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a paved surface for its entire length. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
  - [ii] A minimum of two (2) off-street parking spaces shall be provided for a Tower-based CCF.
  - [iii] A turnaround area must be provided within the fenced area to allow adequate access by all service and emergency vehicles.
- (i) Site Plan Required. In order to determine if the requirements of this section are met, the applicant shall present a site plan showing, at a minimum, the following items:

- [i] Locations of all existing and proposed uses on the subject site including the proposed Tower-based CCF.
- [ii] Elevations and drawings of any existing uses and proposed Tower-Based CCFs, showing proposed width, depth, height, architectural style and structural data for any towers, antenna, etc. proposed.
- [iii] Site boundary, lease area boundary, zoning data, setbacks / yards, and adjacent uses.
- [iv] Vehicular access, fencing, landscaping, utility and /or access easements.
- (j) Inspection. The Township reserves the right to inspect any Tower-Based CCF to ensure compliance with the provisions of this Section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Tower-based CCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(3) Tower-Based CCFs in the Rights-of-Way.

The following regulations shall apply to Tower-Based Commercial Communications Facilities located in the Rights-of-Way:

(a) Development Regulations:

- [i] No Tower-Based CCF shall be located within the existing or future rights-of-way of any township owned arterial or local road as designated by the Township.
- [ii] Tower-based CCFs are permitted in all other existing Right of Ways.
- [iii] The applicant shall provide proof of authorization from the owner of the right(s)-of-way for the location(s) of the proposed tower(s).
- [iv] The application shall be accompanied by plans and other materials, as required by this Chapter, describing the use and locations proposed. Such plans and other materials shall provide sufficient basis for evaluating the applicant's requests.
- (b) Gap in Coverage. An applicant for a Tower-Based CCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of Tower-based CCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless

coverage shall be a factor in the Township's decision on an application for approval of Tower-Based CCF's in the Right of Way.

- (c) Height. Any Tower-Based CCF in rights-of-way, shall be designed at the minimum functional height and shall not exceed a maximum total height of fifty (50) feet, which height shall include all subsequent additions or alterations. All Tower-Based CCF applicants must submit documentation to the Township justifying the total height of the structure.
- (d) Co-location. An application for a new Tower-Based CCF in the Right of Way shall not be approved unless the Township finds that the proposed wireless communications equipment cannot be accommodated on an existing structure, such as a utility pole or traffic light pole. Any application for approval of a Tower-Based CCF shall include a comprehensive inventory of all existing towers and other suitable structures within a one-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
- (e) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based CCF's in the Right of Way based on public safety, traffic management, physical burden on the Right of Way, 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.
- (f) Equipment Location. Tower-Based CCF's and accessory 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 Right of Way as determined by the Township. In addition:
  - [i] In no case shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or edge of road;
  - [ii] Ground-mounted 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.
  - [iii] Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  - [iv] Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.

- [v] Any underground vaults related to Tower-Based CCF's shall be reviewed and approved by the Township.
- (g) Design Regulations.
  - [i] The Tower-based CCF shall employ the most current standards available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact.
  - [ii] Any height extensions to an existing Tower-Based CCF shall require prior approval of the Township, and shall not increase the overall height of the Tower-Based CCF to more than fifty (50) feet.
  - [iii] Any proposed Tower-Based CCF shall be designed structurally, electrically, and in all respects to accommodate both the CCF applicant's Antennas and comparable transmission equipment for future users.
- (h) Additional Antennae. As a condition of approval for all Tower-Based CCFs in the Right of Way, the CCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate Antennae on Tower-Based CCFs where technically and economically feasible. The owner of a Tower-Based CCF shall not install any additional Antennae without obtaining the prior written approval of the Township.
- (i) Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of Tower-Based CCF in the Right of Way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Tower-based CCF 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:
  - [i] The construction, repair, maintenance or installation of any Township or other public improvement in the Right of Way;
  - [ii] The operations of the Township or other governmental entity in the Right of Way;
  - [iii] Vacation of a street or road or the release of a utility easement; or
  - [iv] An Emergency as determined by the Township.
- (j) Compensation for Right of Way Use. In addition to permit fees, every Tower-Based CCF in the Right of Way is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and



occupancy of the Right of Way. Such compensation for Right of Way use shall be directly related to the Township's actual Right of Way management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other Right of Way management activities by the Township. The owner of each Tower-Based CCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. The Annual Right of Way management fee for Tower-Based CCF's shall be determined by the Township and authorized by resolution of Township Board of Supervisors and shall be based on the Township's actual Right of Way management costs as applied to such Tower-Based CCF.

**b. Use. Non-Tower Commercial Communications Facilities.**

**(1) General Requirements for All Non-Tower Commercial Communications Facilities (CCF) and Base Stations.**

- (a) Standard of Care. Any Non-Tower CCF that is considered a collocation, modification, or replacement 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 Non-Tower CCF 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. The Township shall be notified of the use or storage of external power sources, such as batteries or fuel tanks.
- (b) Wind and Load.
  - [i] Any Non Tower CCF that is considered a collocation, modification, or replacement shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI / EIA / TTA 222-G Code, as amended).
  - [ii] The wireless support structure to which the Non Tower CCF is attached shall be able to withstand the additional structural load of the collocation, modification, or replacement.
  - [iii] A copy of the structural analysis, signed and sealed by a registered engineer in the State of Pennsylvania, shall be submitted to the

Township and reviewed as a portion of the permitting process for collocations, modifications, or replacements.

- (c) Public Safety Communications. No Non-Tower CCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (d) Aviation Safety. Non-Tower CCF's shall comply with all federal and state laws and regulations concerning aviation safety.
- (e) Radio Frequency Emissions. No Non-Tower CCF may, by itself or in conjunction with other CCF's, 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.
- (f) Historic Buildings. Non-Tower CCFs may not be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts lists maintained by the Township or has been designated by the Township as being of historic significance.

(2) Non-Tower CCF Development Regulations: No Substantial Change.

If the Eligible Facilities Request for a Non-Tower Commercial Communication Facility or base station is a collocation, modification, or a replacement that does not substantially change the existing wireless support structure, then the requirements contained herein, will be applicable.

- (a) Permitted in all Zoning Districts:
  - [i] Building Permit Required. Collocations, Modifications, or Replacements of Non-Tower CCF's or transmission equipment on existing wireless support structures or base stations are subject to the initial zoning or land use approvals for the previously approved wireless support structure or Non-Tower CCF, and subject only to the building permit review and approval process of the Township.
  - [ii] No Building Permit Required. Replacement of Non-tower CCF's or transmission equipment on existing, Township-approved, wireless support structures or base stations, without an increase in wind or structural load, may be performed by the applicant without obtaining a building permit.
- (b) Removal. In the event that use of a Non-Tower CCF 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. If it remains unused for a period of twelve (12) consecutive months, the Township will provide notice to the owner/operator to remove the tower.

Unused or abandoned Non-Tower CCFs or portions of Non-Tower CCFs shall be removed as follows:

- [i] All abandoned or unused Non-tower CCFs, accessory facilities foundations, etc. shall be removed within three (3) months of the cessation of operations at the site; or from the time the municipality provides notice, unless a time extension is approved by the Township.
  - [ii] If the Non-tower CCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Township, the Non-Tower CCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the Non-Tower CCF.
- (c) Timing of Decision. Within thirty (30) calendar days of the date that an application for a collocation, modification, or replacement of a Non-Tower CCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. If additional information is requested by the Township to complete an application, the time period for review may be tolled by mutual agreement. Within sixty (60) calendar days of receipt of the application, accounting for tolling, the Township must make a final decision regarding the application and shall advise the applicant in writing of such decision.
- [i] A determination of incompleteness must specifically delineate all missing information, and specifying the code provision, ordinance, application instructions or otherwise publically stated procedures that require the information to be submitted
  - [ii] Following an applicant's resubmission in response to a determination of incompleteness, the Township may reach a subsequent determination of incompleteness based solely on the applicant's failure to supply the specific information that was requested within the first 30 days.
  - [iii] The 60-day review period begins running again when the applicant makes its supplemental resubmission; however, the review period may be tolled, once again, if the Township notifies the applicant within ten (10) days that the supplemental submission did not

provide the specific information identified in the original notice delineating missing information.

(3) Non-Tower CCF Development Regulations -- Substantial Change:

If the Eligible Facilities Request for a Non-Tower Commercial Communication Facility or base station is a collocation, modification, or a replacement that substantially changes the existing wireless support structure, then the requirements contained herein, will be applicable.

- (a) Permitted in all Zoning Districts. Non-Tower CCF's are permitted in all zoning districts subject to the initial zoning or land use approvals for the previously approved wireless support structure or Non-Tower CCF. These CCFs are subject the building permit review and approval process of the Township.
- (b) Maintenance. The following maintenance requirements shall apply:
  - [i] The Non-Tower CCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - [ii] 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.
  - [iii] All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (c) 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 Non-Tower CCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Section. The applicant and/or owner of the Non-Tower CCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (d) Timing of Decision. Within thirty (30) calendar days of the date that an application for a Non-Tower CCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within ninety (90) 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 applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety (90) day review period.

(c) Removal. In the event that use of a Non-Tower CCF 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 Non-Tower CCFs or portions of Non-Tower CCFs shall be removed as follows:

[i] All abandoned or unused Non-Tower CCFs, accessory facilities, foundations, etc. shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.

[ii] If the Non-Tower CCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Township, the Non-Tower CCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the CCF.

[iii] Prior to the issuance of a zoning permit, the owner/operator of the Non-Tower CCF shall post security, in a form acceptable to the Township, favoring the municipality, to assure the faithful performance of the terms and conditions of this section. Security shall be an amount to cover tower and/or antenna removal and site clean-up. The security shall be utilized by the Township in the event the owner or operator of the Non-Tower CCF does not remove the facility as outlined in subsections (a) and (b) above or to recover any and all compensatory damages incurred by the Township for violations of this Section, after reasonable notice and opportunity to cure.

(f) Indemnification. Each person that owns or operates a Non-Tower CCF shall, at its sole cost and expense, indemnify, defend, and hold harmless the Township, its elected and appointed officials, employees, engineer, solicitor, planner, agents, and other relevant professional consultants, 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, operations, maintenance, or removal of a Non-Tower CCF. The obligation to indemnify, hold harmless, and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorney's fees, reasonable expert fees, court costs, and all other costs of indemnification.

(4) Non-Tower CCFs Outside the Rights-of-Way.

If the Eligible Facilities Request for a Non-Tower Commercial Communication Facility or base station is a collocation, modification, or a replacement that substantially changes the existing wireless support structure AND is located outside the Right of Way, then the requirements contained herein, will be applicable.

(a) Development Regulations. Non-Tower CCFs shall be co-located on existing wireless support structures / base stations, subject to the following conditions:

- [i] Such Non-Tower CCF does not exceed the maximum permitted height of the existing wireless support structure.
- [ii] If the Non-Tower CCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- [iii] An eight (8) foot high security fence 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.

(b) Design Regulations.

- [i] Non-Tower CCFs shall be treated to match the supporting structure in order to minimize aesthetic impact.
- [ii] Non-Tower CCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the ground.
- [iii] All Non-Tower based CCF applicants must submit documentation to the Township justifying the total height of the Non-Tower structure such documentation shall be analyzed in the context of such justification on an individual basis.
- [iv] Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.

(c) Inspection. The Township reserves the right to inspect any Non-Tower CCF to ensure compliance with the provisions of this Section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Non-Tower CCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(5) Non-Tower CCFs in the Rights-of-Way.

If the Eligible Facilities Request for a Non-Tower Commercial Communication Facility or base station is a collocation, modification, or a replacement that substantially changes the existing wireless support structure AND is located in the Right of Way, then the requirements contained herein, will be applicable.

- (a) Co-location. Non-Tower CCFs in the Right of Way shall be located on existing poles/base stations, such as existing utility poles or light poles or other wireless support structures.
- (b) Design Requirements
  - [i] Non-Tower CCF installations located above the surface grade in the public Right of Way 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.
  - [ii] Antennae and all support equipment shall be treated to match the supporting structure. Non-Tower CCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- (c) Equipment Location. Non-Tower CCF's and accessory 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 Right of Way as determined by the Township. In addition:
  - [i] In no case shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb;
  - [ii] Where possible, ground-mounted equipment shall be located underground, in the event an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground-mounted equipment cannot be placed underground, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - [iii] Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.

- [iv] Any graffiti on the non-tower CCF or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
  - [v] Any underground vaults related to Non-Tower CCF's shall be reviewed and approved by the Township.
- (d) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower CCF's in the Right of Way based on public safety, traffic management, physical burden on the Right of Way, 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.
- (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 a Non-Tower CCF in the Right of Way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Non-Tower CCF 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:
- [i] The construction, repair, maintenance or installation of any Township or other public improvement in the Right of Way;
  - [ii] The operations of the Township or other governmental entity in the Right of Way;
  - [iii] Vacation of a street or road or the release of a utility easement; or
  - [iv] An Emergency as determined by the Township.
- (f) Compensation for Right of Way Use. In addition to permit fees, every Non-Tower CCF in the Right of Way is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the Right of Way. Such compensation for Right of Way use shall be directly related to the Township's actual Right of Way management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other Right of Way management activities by the Township. The owner of each Non-Tower CCF shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The Annual Right of Way management fee for Non-Tower CCF's shall be determined by the Township and authorized by resolution of Township Board and shall be



based on the Township's actual Right of Way management costs as applied to such Non-Tower CCF.

**SECTION VII. SEVERABILITY**

The provisions of this Ordinance are severable. If any sentence, clause or Section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional illegal or invalid provision not been included herein.

**SECTION VIII. REPEALER**

All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

**SECTION IX. EFFECTIVE DATE**

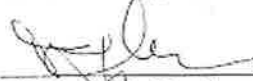
This Ordinance shall become effective five (5) days after adoption thereof.

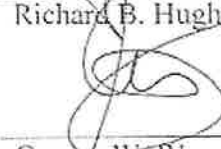
ENACTED and ORDAINED this 4 day of May, 2017.

ATTEST:

  
Jill Seymour, Secretary

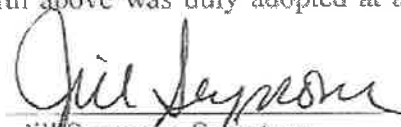
LOWHILL TOWNSHIP  
BOARD OF SUPERVISORS

  
Richard B. Hughes - Chairman

  
George W. Wessner Jr. -  
Vice Chairman

  
Robb A. Werley - Member

It is hereby certified that the Ordinance set forth above was duly adopted at a meeting of the Board of Supervisors on 5/4/17.

  
Jill Seymour, Secretary