

Township of Wysox

Bradford County

ORDINANCE NO. 2018-03

AN ORDINANCE WIRELESS COMMUNICATION FACILITIES OF THE CODE OF THE TOWNSHIP OF WYSOX, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

This ordinance revokes, rescinds, replaces, repeals and supersedes all ordinances or parts of ordinances of Wysox Township, a political subdivision of County of Bradford, Commonwealth of Pennsylvania that are inconsistent herewith. Existing ordinance that are not inconsistent with this ordinance or any enabling statute for this ordinance shall remain in full force and effect.

§ 1. Intent. The intent of this section is to:

- A. Promote the health, safety, and welfare of Township residents and businesses with respect to WCFs.
- B. Provide for the managed development of WCFs in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations.
- C. Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower-based WCFs 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 (DAS), data collection units, cable wi-fi and other WCFs.
- E. Encourage the co-location of WCFs on existing structures rather than the construction of new tower-based structures.
- F. Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape.
- G. Comply with all provisions and requirements of the Pennsylvania Wireless Broadband Co-location Act (WBCA), as amended, and any other applicable state and/or federal regulations.

§ 2. Applicability. All wireless communications facilities (WCFs), as defined in Part 2 of this chapter, shall comply with all applicable terms and provisions of this section.

§ 3. Authorized Uses.

- A. Refer to 27 Attachment 2, "Table of Authorized Principal Uses, Zoning Districts Where Use is Authorized, and Method of Authorization," for zoning districts in which WCFs are permitted. Any WCF which is identified as requiring conditional use approval shall also comply with the express standards and criteria for uses authorized by conditional use as set forth in Part 7 of this chapter.

B. Refer to 27 Attachment 3, "Table of Authorized Accessory Uses, Zoning District Where Authorized, and Method of Authorization," for zoning districts in which any WCF accessory uses are permitted. Any WCF which is identified as requiring conditional use approval shall also comply with the express standards and criteria for uses authorized by conditional use as set forth in Part 7 of this chapter.

C. Noncommercial Usage Exemption. Township citizens utilizing satellite dishes and antennas for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from this section.

D. Nonconforming Uses. Nonconforming WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored, in kind, at their former location, but must otherwise comply with the terms and provisions of this section, except that any co-location approved under a former ordinance shall be permitted to continue consistent with the requirements of the WBCA.

§ 4. Procedures.

A. Application. Each applicant proposing the construction of a WCF shall complete and submit all appropriate applications prior to beginning construction of such WCF.

B. Permits. Applicants proposing the modification of an existing WCF or construction of a new WCF shall obtain all required permits from the Township prior to beginning construction. New construction and modifications shall be prohibited without a zoning permit.

C. Fees. The Township may assess appropriate and reasonable permit fees, as delineated or limited by the WBCA or any other applicable state and/or federal laws or regulations, which are directly related to the Township's actual costs in reviewing and processing applications for approval as well as related inspection, monitoring and related costs.

D. Engineer Signature. All plans and drawings shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

E. Retention of Experts. Except as limited by the WBCA or other applicable statute, the Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this section. The applicant and/or owner of the WCF shall reimburse the Township for all reasonable costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.

F. Approval.

(1) Non-Tower Wireless Communications Facilities. Within 30 calendar days of the date that an application for a non-tower WCF 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 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-day review period.

(2) Tower-Based Wireless Communications Facilities. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF, 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 one-hundred-fifty-day review period.

(3) Approval shall only be granted when it has been clearly and unequivocally established that the proposed WCF fully complies with the Township's Code of Ordinances and, as permissible consistent with the requirements of the WBCA or any other applicable state and federal laws or regulations, will not have a significant adverse visual and/or land use impact.

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

§ 5. General Requirements for Wireless Communications Facilities (WCFs).

A. Standard of Care. Any WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the American National Standards Institute (ANSI) Code, as amended, the National Electrical Safety Code, as amended, and the National Electrical Code, as amended. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township. With regard to co-location, nothing within these general requirements shall be construed to impose requirements greater than those permitted to be imposed by the Township under the WBCA.

B. Design.

(1) WCFs, including all associated antennas, towers, equipment, sheds, buildings, and the like, shall be context-sensitive, employ stealth technology, and be treated to match any supporting structure, when applicable, in order to minimize aesthetic impact. The application of such treatments shall be subject to the approval of the Township.

(2) Wind. All WCF 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/EIA-222-E, as amended).

(3) In accordance with the WBCA, the aforementioned design requirements shall not apply to the co-location, replacement, or alteration of antennas, accessory equipment, or WCFs upon any existing wireless support structure or within an existing equipment compound.

C. Location.

(1) All WCFs shall be located on an existing WCF structure whenever practical and feasible to do so.

(2) Should co-location on an existing WCF structure not be possible, the proposed WCF shall be located on a non-WCF existing structure, such as, but not necessarily limited to, a utility pole or building.

(3) Should co-location on a non-WCF existing structure not be possible, the proposed WCF shall be located on a separate tower and abide by the general regulations set forth in this section as well as § 27-327.7, Tower-Based Wireless Communications Facilities (Tower-Based WCFs).

(4) WCFs shall not be located in the front facade area of the following uses: single-family detached, single-family semidetached, quad dwelling, two-family dwelling, townhouse, or row dwelling. This restriction shall not apply in instances involving co-location on an existing nonconforming building or structure that already holds WCF equipment.

(5) Historic Buildings. No non-tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places, or is eligible to be so listed, 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. This restriction shall not apply in instances in which the historic building or structure in question holds WCF equipment on the date of adoption of this section.

D. Access and Parking.

(1) An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to WCFs.

(a) WCFs located within the right-of-way may utilize existing roads, whether public or private, to the extent practicable.

(b) Road construction shall at all times minimize ground disturbance and the cutting of vegetation.

(c) Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.

(2) Off-street parking shall comply with the requirements of § 27-312.14, Off-Street Parking Requirements.

(3) Vehicular access shall not interfere with parking or vehicular circulation on the site for the principal use.

(4) Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

E. Public Safety.

(1) WCFs 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 ROW as determined by the Township.

(2) No WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

(3) No WCF-associated building shall be permitted within a road right-of-way.

(4) Aviation Safety. WCFs shall comply with all federal and state laws and regulations concerning aviation safety as well as the Township's Airport Hazard Area Overlay District Ordinance found in this chapter.

F. Operations.

(1) Radio Frequency Emissions. No WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

(2) Lighting. No WCF shall be artificially lighted, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. All other associated lighting related to the WCF and/or its accessory equipment shall comply with the Township Code, § 27-318.

(3) Noise. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, § 27-313, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

G. Signs. Signage of any type, except for: signage required by law, safety signage, and signage identifying the WCF's operator and subsequent contact information, is prohibited from being attached to or displayed upon any WCF.

H. Insurance.

(1) Non-Tower WCFs. Where permitted by law, each person that owns or operates a non-tower WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the non-tower WCF.

(2) Tower-Based WCFs Less Than 50 Feet in Height. Where permitted by law, each person that owns or operates a tower-based WCF 50 feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each tower-based WCF.

(3) Tower-Based WCFs Greater Than 50 Feet in Height. Where permitted by law, each person that owns or operates a tower-based WCF greater than 50 feet in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the tower-based WCF.

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

J. Maintenance.

(1) WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

(2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.

(3) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notification by the Township.

§ 6. Non-Tower Wireless Communications Facilities (Non-Tower WCFs).

A. All non-tower WCFs shall comply with the general requirements for wireless communications facilities as set forth in this chapter and all subsequent standards set forth below, as applicable. WCFs that do not substantially change the wireless support structure, as that term is defined and used in the WBCA, shall be exempt from these requirements.

B. Antennas and all support and accessory equipment shall be context-sensitive to the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted, as may be permitted or restricted in the WBCA or any other applicable state and federal laws and regulations.

C. Replacement and Alteration. Any material replacement of or alteration to a wireless telecommunication facility shall comply with this section and will require that a separate permit be obtained.

D. Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

(1) All abandoned or unused WCFs and accessory facilities shall be removed within two months of the cessation of operations at the site, unless a time extension is approved by the Township.

(2) If the WCF or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

(3) WCFs located within the right-of-way shall comply with the following:

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

1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;

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

E. Specific Standards for Non-Tower WCFs.

(1) Non-Tower WCFs Located Outside of the Right-of-Way.

(a) Maximum Height. The maximum permitted height shall be 35 feet.

(b) Accessory equipment and buildings:

1) Shall comply with all required setbacks for principal structures established for the zoning district in which they are located.

2) Ground-mounted accessory equipment, buildings, and accessory structures shall not exceed 15 feet in height.

(c) A security fence of not less than six feet and not more than eight feet shall surround any separate communications equipment building.

(2) Non-Tower WCFs Located Within the Right-of-Way.

(a) WCF installations located above the surface grade in the public ROW, including, but not limited to, those on streetlights and joint utility poles, shall be compatible in height, scale, and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

(b) Any proposed underground vault related to non-tower WCFs shall be reviewed and approved by the Township.

(c) Setbacks and Landscaping.

1) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb or within an easement extending onto a privately owned lot.

2) Ground-mounted equipment that cannot be located underground, as well as electrical meter cabinets, shall be screened, to the fullest extent possible, through the use of landscaping or other context-sensitive features to the satisfaction of the Township.

§ 7. Tower-Based Wireless Communications Facilities (Tower-Based WCFs).

A. All tower-based WCFs shall comply with the general requirements for wireless communications facilities as set forth in this chapter and all subsequent standards set forth below, as applicable. WCFs that do not substantially change the wireless support

structure, as that term is defined and used in the WBCA, shall be exempt from these requirements.

B. Location.

(1) Tower-Based WCFs 50 Feet or Less in Height.

(a) Such tower-based WCFs shall be permitted along collector roads and arterial roads, except when the aforementioned roads are located within a planned residential development.

(2) Tower-Based WCFs, Greater Than 50 feet in Height.

(a) Tower-based WCFs in excess of 50 feet in height are prohibited from being located within any road right-of-way.

(b) In addition to the regulations set forth herein, tower-based WCFs greater than 50 in height and outside the right-of-way must comply with Chapter 27, Part 7, § 27-705, Express Standards and Criteria for Each Use Authorized by Conditional Use Procedure.

(3) An application for a new tower-based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building, or on Township property.

C. Height.

(1) Any tower-based WCF shall be designed at the minimum functional height. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure. The maximum total height of any tower-based WCF which is not located in the public ROW shall not exceed 180 feet, as measured vertically from the ground level to the highest point on the structure, including antennas and subsequent alterations.

(2) Accessory equipment buildings, cabinets and accessory structures shall not exceed 15 feet in height.

(3) Any height extensions to an existing tower-based WCF shall require prior approval of the Township and shall comply with the Township's Code of Ordinances.

D. Gap in Coverage. An applicant for a tower-based WCF 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 WCF being proposed is the least-intrusive means by which to fill that gap in wireless coverage or capacity. The existence or nonexistence of a gap in wireless coverage or capacity may be a factor in the Township's consideration of and decision on an application for approval of tower-based WCFs.

E. Identification Signs. All tower-based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.

F. Licenses. Each person that owns or operates a tower-based WCF shall submit a copy of its current FCC license (if a licensee), including the name, address, and emergency telephone number for the operator of the facility.

G. Removal. In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

(1) All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six months of the cessation of operations at the site, unless a time extension is approved by the Township.

(2) If the WCF and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

(3) Any unused portions of tower-based WCFs, including antennas, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.

(4) The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all tower-based WCFs 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.

(5) WCFs located within the right-of-way shall comply with the following:

(a) Within 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 tower-based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;

2) The operations of the Township or other governmental entity in the right-of-way;

3) Vacation of a street or road or the release of a utility easement;

or

4) An emergency as determined by the Township.

H. Specific Standards for Tower-Based WCFs.

(1) Tower-Based WCFs Located Outside the Right-of-Way.

(a) Lot.

1) The foundation and base of any tower-based WCF shall be set back from property lines by the largest of the following:

a) The minimum setback in the underlying zoning district.

b) One hundred feet from residential property lines and any residential district boundary.

c) Fifty feet from other property lines.

2) A tower-based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another permitted proposed use, in accordance with 27 Attachment 2, "Table of Authorized Principal Uses, Zoning Districts Where Use is Authorized, and Method of Authorization," subject to the following conditions(s):

a) The existing use on the property is a permitted use in the applicable district.

(b) Design.

1) The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, to document and verify the design specifications of the foundation of the tower-based WCF, and anchors for guy wires, if used.

(c) Accessory Equipment and Buildings.

1) All utility buildings and accessory structures shall meet the minimum setback requirements for accessory structures of the underlying zoning district.

(d) Landscaping and Screening.

1) Existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.

2) Landscaping shall be installed to screen and buffer the tower and any ground-level features, such as an equipment building, from adjacent properties.

3) The landscape screen shall consist of a mix of evergreen trees planted in a staggered double row. The plantings shall be a minimum height of six feet at planting and shall grow to a minimum of 15 feet at maturity.

(2) Tower-Based WCFs Located Within the Right-of-Way.

(a) Tower-based WCFs in the public ROW shall not exceed 50 feet in height.

(b) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.

(c) Ground-mounted equipment that cannot be underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.

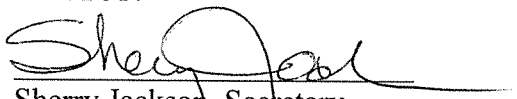
(d) Any underground vaults related to tower-based WCFs shall be reviewed and approved by the Township.


(e) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.

This Ordinance shall take effect immediately upon adoption.

ENACTED AND ORDAINED BY THE TOWNSHIP OF WYSOX THIS 8th DAY OF FEBRUARY, 2017.

ATTEST:


Sherry Jackson, Secretary


William Them, Supervisor


Evan Barnes, Supervisor


Thomas Thompson III, Supervisor