

NOTICE TO THE RESIDENTS OF THE BOROUGH OF WYOMISSING

The Borough Council of Wyomissing, Berks County, Pennsylvania on Tuesday, April 13, 2021 at 6:30 p.m. via Zoom shall convene a public hearing regarding and at the regular meeting to be held immediately thereafter consider enactment of the proposed Zoning Ordinance amendment with a title and summary of the provisions as follows:

AN ORDINANCE OF THE BOROUGH OF WYOMISSING, BERKS COUNTY, PENNSYLVANIA, TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF WYOMISSING, CHAPTER 27 ENTITLED “ZONING” BY AMENDING SECTION 623, REGARDING WIRELESS COMMUNICATIONS FACILITIES, TO ESTABLISH AESTHETIC STANDARDS FOR SMALL WIRELESS COMMUNICATIONS FACILITIES.

Section 1 amends the Code of the Borough of Wyomissing Chapter 27 entitled “Zoning,” Section 623 entitled “Wireless Communications Facilities” Part A “General Requirements” for all Tower-Based Communications Facilities, Part B “General Requirements” for all Non-Tower Wireless Communications Facilities, Part C “Non-Tower Wireless Communications Facilities Outside the Right-of-Way”, and Part D “Non-Tower Wireless Communications Facilities in the Right-of-Way”. The entirety of the amended Section 623 is set forth in full in the proposed Ordinance. Section 2 is the repealer provision. Section 3 states that the provisions of this ordinance shall be severable. Section 4 provides for an effective date. Section 5 states that this Ordinance shall become part of the Code of Ordinances.

A complete copy of the proposed Ordinance is on file with this publication and the Berks County Law Library. A copy of the Ordinance is also available on the Borough's website at <https://wyomissingboro.org>. A complete copy of the proposed Ordinance is also available electronically without charge and for copying at a charge not greater than the cost thereof at the Borough Hall during regular office hours. Borough Hall is currently closed to the public due to COVID-19. Please call the Borough at 610-376-7481 or email mmiller@wyomissingboro.org to arrange for receipt of a copy of the proposed Ordinance electronically or to make arrangements for a hard copy to be provided to you.

The public is invited to participate and testify at the hearing and meeting. The information to access the hearing and meeting can be found on the Borough's website under the Zoom Meetings menu option at <https://wyomissingboro.org/zoom-meetings/>. All public comments must be submitted by email to mmiller@wyomissingboro.org no later than 24 hours in advance of the scheduled meeting time. The Borough has also provided a copy of the virtual meeting public participation policy on the website as well as the meeting agenda.

BOROUGH OF WYOMISSING,
BERKS COUNTY, PENNSYLVANIA
Melissa Miller, Borough Secretary

Christopher J. Hartman, Esquire, Solicitor

To be published in the Reading Eagle on April 2, 2021 and April 6, 2021.

BOROUGH OF WYOMISSING, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 1418-2021

AN ORDINANCE OF THE BOROUGH OF WYOMISSING, BERKS COUNTY, PENNSYLVANIA, TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF WYOMISSING, CHAPTER 27 ENTITLED “ZONING” BY AMENDING SECTION 623, REGARDING WIRELESS COMMUNICATIONS FACILITIES, TO ESTABLISH AESTHETIC STANDARDS FOR SMALL WIRELESS COMMUNICATIONS FACILITIES.

WHEREAS, the Council of the Borough of Wyomissing desires to amend the Code of the Borough of Wyomissing to establish aesthetic standards for small wireless communications facilities by amending zoning regulations found at Chapter 27 of such Code;

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Wyomissing, Berks County, Pennsylvania, pursuant to the authority conferred by 1984 Pa. Laws 164 codified at 74 Pa. Cons. Stat. §§5912 et. seq., the Borough Code and the Pennsylvania Municipalities Planning Code as follows:

SECTION 1. The Code of the Borough of Wyomissing Chapter 27 entitled “Zoning”, is hereby amended by amending Section 623, entitled Wireless Communications Facilities, to read as follows:

§623. Wireless Communications Facilities.

- A. General Requirements for All Tower-Based Wireless Communications Facilities. The following regulations shall apply to all tower-based wireless communications facilities:

(1) Development Regulations.

- (a) Prohibited in Residential Zones. No tower-based WCF shall be located in a right-of-way or a district zoned residential or within 500 feet of a lot in residential use or a residential district boundary. The distance from the base of a proposed tower-based WCF to the nearest point on any lot line, lease line and license line shall not be less than the full height of the tower structure. No more than one tower-based WCF shall be placed on any one lot, or leased or licensed parcel, nor within one thousand feet (1,000') of another tower-based WCF. Tower-based WCFs are permitted only in C-2, I-1 and I-2 Zoning Districts as specified.

- (b) **Gap in Coverage.** An applicant for a tower-based WCF 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 WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Borough's decision on an application for approval of tower-based WCF's.
- (c) **Sole Use on a Lot.** A tower-based WCF 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. A subdivision plan shall be required for any lot or lease parcel created for occupancy by a tower-based WCF and telecommunications equipment building. A land development plan shall be required prior to construction of any tower-based WCF and telecommunications equipment building.
- (d) **Combined with Another Use.** A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
 - (1) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications facility.
 - (2) **Minimum Lot Area.** The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence, and buffer planting.
 - (3) **Minimum Setbacks.** The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within 500 feet of a lot in residential use or a residential district boundary.
- (2) **Notice.** Upon receipt of an application for a tower-based WCF, the Borough shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
- (3) **Co-location.** An application for a new tower-based WCF shall not be approved unless the Borough finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a 2-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the

Borough that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.

- (4) Standard of Design and Care. Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, the Uniform Construction Code (UCC), National Electric Safety Code, National Electric Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Structure design certification from a Pennsylvania registered professional engineer is required and the tower capacity shall be indicated. Detailed construction and elevation drawings, indicating antenna locations and mounting design, shall be submitted by the applicant. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.
- (5) Design Regulations.
 - (a) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.
 - (b) Any height extensions to an existing tower-based WCF shall require prior approval of the Borough. The Borough reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Borough.
 - (c) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennae for future users.
 - (d) Any Tower-Based WCF over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer. [Ord. 1376]
- (6) Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard design by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
- (7) Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of 125 feet, which height

shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Borough justifying the total height of the structure.

- (8) Lighting. Tower-based WCF shall not be artificially lighted, except as required by law and as may be approved by the Borough. 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.
- (9) Surrounding Environs.
 - (a) The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
 - (b) The WCF applicant shall submit a soil report to the Borough complying with the standards of Appendix I: Geotechnical Investigations, ANSI/ETA 222-B, as amended, to document and verify the design specifications of the foundation of the tower-based WCF.
- (10) Visual or Land Use Impact. The Borough reserves the right to deny an application for the construction or placement of any tower-based WCF based upon visual and/or land use impact.
- (11) Fence / Screen.
 - (a) A security fence having a maximum height of eight feet (8') shall completely surround any tower-based WCF or any building housing WCF equipment.
 - (b) An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
 - (c) The WCF applicant shall submit a landscape plan for review and approval by the Borough Planning Commission for all proposed screening.
- (12) Identification. All tower-based WCF'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 Borough.
- (13) Historic Buildings or Districts. No tower-based WCF may 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 list maintained by the Borough, or has been designated by the Borough as being of historic significance.

- (14) Appearance. Towers shall be galvanized and / or painted with rust-preventive paint of an appropriate color to harmonize with the surroundings.
- (15) Accessory Equipment.
- (a) Ground-mounted equipment associated to, or connected with, a tower-based WCF shall be underground or enclosed in a structure. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Borough Engineer, then the ground mounted equipment shall be screened from public view using stealth technologies, as described above.
 - (b) 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 requirements of the underlying zoning district.
 - (c) The telecommunications equipment building shall comply with the required yards and height requirements of the applicable Zoning District for a principal structure. No building may be used as an office or as a broadcast studio. Employees are permitted to visit the site as often as necessary for maintenance and inspection of the building and facility. No building or WCF may be used for long term vehicle storage or for other outdoor storage.
- (16) Additional Antennae. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate antennae on tower-based WCFs where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennae without obtaining the prior written approval of the Borough.
- (17) Public Safety Communications. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
- (18) Radio Frequency Emissions. No tower-based WCF may, by itself or in conjunction with other WCF'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.
- (19) Noise. Tower-based WCF's shall be operated and maintained so as not to produce noise in excess of applicable noise standards under State law and the Borough Code, except in emergency situations requiring the use of a

backup generator, where such noise standards may be exceeded on a temporary basis only.

- (20) **Aviation Safety.** Tower-based WCFs shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for tower-based WCF's shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the tower-based WCF complies with applicable regulations or is exempt from these regulations.
- (21) **Access Road.** A paved access road, of at least ten feet (10') in width, in an easement of at least twenty feet (20') in width, turnaround space and a minimum of one off-street parking space shall be provided to ensure adequate emergency and service access to tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. 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. Where applicable, the WCF owner shall present documentation to the Borough that the property owner has granted an easement for the proposed facility.
- (22) **Bond.** Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor, in an amount of \$100,000 to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough.
- (23) **License and Insurance.** In addition, The applicant shall submit a copy of its current Federal Communications Commission (FCC) license; the name, address and emergency telephone number for the operator of the communications tower or antennae; and 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 communications tower or antenna.
- (24) **Timing of Approval.** Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Borough, the Borough 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 Borough shall advise the applicant in writing of its decision. If additional information was requested by the Borough to complete an application, the time required by the

applicant to provide the information shall not be counted toward the 150-day review period.

- (25) **Permit Fees.** The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs pursuant to a fee schedule adopted and as amended from time to time by Council for the Borough.
- (26) **Retention of Experts.** The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (27) **Nonconforming Uses.** Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Chapter.
- (28) **Maintenance.** The following maintenance requirements shall apply:
 - (a) Any tower-based WCF 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 Borough's residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (29) **Inspection.** The Borough reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Borough Code or State or Federal law. The Borough 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.
- (30) **Removal.** In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- (a) All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Borough.
- (b) If the WCF and/or accessory facility is not removed within 6 months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (c) Any unused portions of tower-based WCFs, including antennas, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a tower-based WCF previously removed.

B. General Requirements for All Non-Tower Wireless Communications Facilities.

- (1) The following regulations shall apply to all non-tower wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached:
 - (a) Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough. Applicants proposing installations on existing buildings or towers shall submit evidence of agreements and / or easements necessary to provide access to the existing building or tower so that installation and maintenance of the equipment can be accomplished.
 - (b) Upon receipt of an application for any non-tower based WCF, the Borough shall mail notice thereof to the owner or owners of every adjacent property of the proposed facility. [Ord. 1386]
 - (c) Standard of Design and Care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, Pennsylvania Construction Code Act and Regulations and National Electrical Code and not affect pedestrian or vehicular traffic. Design certification from a Pennsylvania registered professional engineer is required to attest that the existing structure can adequately support the proposed equipment installation. Detailed construction and elevation drawings, indicating antenna locations and mounting design, shall be submitted by the applicant. 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 Borough.

- (d) Wind. Any non-tower 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 (ANSFEINTIA-222-E Code, as amended).
- (e) Public Safety Communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
- (f) Aviation Safety. Non-tower WCFs shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for non-tower WCF's shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the non-tower WCF complies with applicable regulations or is exempt from these regulations.
- (g) Radio Frequency Emissions. No non-tower 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.
- (h) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. 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 three (3) months of the cessation of operations at the site unless a time extension is approved by the Borough.
 - (2) If the WCF 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 Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (i) Timing of Approval. Within ten (10) calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that

may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision.

- (j) Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF. Such permit fees shall be established by resolution adopted by the Council for the Borough, as amended from time to time
- (2) The following regulations shall apply to all non-tower wireless communications facilities that substantially change the wireless support structure to which they are attached:
- (a) Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough.
 - (b) Upon receipt of an application for any non-tower-based WCF, the Borough shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
 - (c) Standard of Care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, Pennsylvania Construction Code Act and Regulations and National Electrical Code and not affect vehicular or pedestrian traffic. 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 Borough.
 - (d) Wind. Any non-tower 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 (ANSFEINTIA-222-E Code, as amended).
 - (e) Public Safety Communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband,

television, radio or other communications services enjoyed by occupants of nearby properties.

- (f) **Historic Buildings.** Non-tower WCFs 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 Borough, or has been designated by the Borough as being of historic significance.
- (g) **Aviation Safety.** Non-tower WCFs shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for non-tower WCFs shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the non-tower WCF complies with applicable regulations or is exempt from these regulations.
- (h) **Maintenance.** The following maintenance requirements shall apply:
 - (1) The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
 - (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (i) **Radio Frequency Emissions.** No non-tower 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.
- (j) **Removal.** In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. 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 3 months of the cessation of operations at the site unless a time extension is approved by the Borough.

- (2) If the WCF or accessory facility is not removed within 3 months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (k) **Timing of Approval.** Within ten (10) calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision.
- (l) **Retention of Experts.** The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (m) **Bond.** Prior to the issuance of a permit, the owner of each individual non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Borough Solicitor, in an amount of \$25,000 for each individual non-tower WCF, to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Borough.
- (n) **License and Insurance.** In addition, the applicant shall submit a copy of its current Federal Communications Commission (FCC) license; the name, address and emergency telephone number for the operator of the communications tower or antennae; and 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 communications tower or antenna.
- (o) **Permit Fees.** The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF, as well as related inspection, monitoring and related costs pursuant to a

fee schedule adopted by resolution and as amended from time to time by Council for the Borough.

- (3) The following regulations shall apply to all non-tower wireless communications facilities whether or not they substantially change the physical dimensions of the wireless support structure to which they are attached, and whether or not the non-tower wireless communications facilities are installed within or outside of the Right-of-Way:
- (a) Preferred Concealment Techniques. All applicants should, to the extent feasible, propose new non-tower wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, when integration with existing building features is not feasible, the applicant should propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions. Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.
 - (b) Facade-Mounted Equipment. When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the Zoning Officer may approve facade-mounted equipment in accordance with this subsection. All facade-mounted equipment must be concealed behind screen walls and mounted as flush to the facade as practicable. The Zoning Officer may not approve "pop-out" screen boxes unless the design is architecturally consistent with the original building or support structure. Except in manufacturing zones, the Zoning Officer may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible.
 - (c) Rooftop-Mounted Equipment. All rooftop-mounted equipment must be screened from public view with concealment measures that match the underlying structure in proportion, quality, architectural style and finish. The Zoning Officer may approve unscreened rooftop equipment only when it expressly finds that such equipment is effectively concealed due to its low height and/or setback from the roofline.

- (d) New Support Structures. The Zoning Officer shall not approve any new, non-replacement support structures unless: (i) the applicant demonstrates that above-ground support structures within the intended service area either do not exist, are not potentially available to the applicant, or would materially inhibit the applicant's deployment due to cost, technical feasibility and time to deployment; or (ii) the Zoning Officer specifically finds that a new, nonreplacement support structure would be more aesthetically desirable and consistent with the objectives in this section than installations on existing structures near the project site. The Zoning Officer shall have the discretion to require that any new support structure must be a streetlight that conforms to the Borough's streetlight standards and specifications, which the Borough shall maintain for street illumination and public safety purposes.
- (e) Pole-Mounted Equipment. All pole-mounted equipment must be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation between the equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must face toward the street or otherwise placed to minimize visibility from adjacent sidewalks and structures to the extent feasible. All cables, wires and other connectors must be routed through conduits within the pole whenever possible, and all conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.
- (f) A non-tower WCF may not be installed within 125 feet of another non-tower WCF unless it is collocated on a structure on which a non-tower WCF is already installed.
- (g) A non-tower WCF may not be installed on a structure less than 14 feet in height.
- (h) An antenna may not be installed at a height of less than 14 feet from the ground surface.
- (i) A non-tower WCF may not be installed on a structure whose combined height exceeds 35 feet in a residential zoning district.
- (j) A non-tower WCF may not advertise products or contain pictorial drawings or written messages unrelated to the equipment's functionality, except for a 4 inch by 6 inch sign plate which shall be

required to be permanently fixed to the non-tower WCF's enclosure or shroud with the wireless provider's name, location identifying information, and emergency telephone number, and which shall be updated whenever the information contained in the sign plate changes.

- (k) Replacement of Existing Street Light Poles. Except where street light installation is required by paragraph (d) above, the following standards apply when replacing an existing street light pole with a combination non-tower WCF and street light pole. Such replacements should only be located where an existing street light pole can be removed and replaced, or at a new location where it has been identified that a street light is necessary. All such replacements shall meet the following standards: (i) replacement street light poles shall be an equal distance from other street light poles based upon the average distance between existing street light poles within the immediate neighborhood; (ii) replacement street light poles shall have at least a 5 year manufacturer's replacement warranty; (iii) replacement street light poles shall be owned by the Borough at the Borough's discretion; (iv) the centerline of a new non-tower WCF support structure shall be in alignment with existing utility poles where present, or with street trees along the same side of the ROW; (v) new non-tower WCF support structures shall be located a minimum of 12 feet from driveway aprons; (vi) new non-tower WCF support structures shall be sited a minimum of 15 feet away from trees to prevent disturbance within the critical root zone of existing trees having a 6 inch diameter at breast height located in the immediate vicinity.
- (l) Photographic "before and after" simulations of the proposed location of the non-tower WCF demonstrating concealment efforts shall be provided to the Borough as part of the zoning permit application, and shall, if technically feasible, be modified according to reasonable requests of the Borough to better blend with the surrounding area.
- (m) New non-tower WCF support structures shall be designed to accommodate 2 carriers/antennas.

- (4) The regulations set forth herein for non-tower wireless communications facilities shall not apply to non-commercial communications non-tower wireless communications facilities.

C. Non-Tower Wireless Communications Facilities Outside the Right-of-Way. The following additional regulations shall apply to non-tower wireless

communications facilities located outside the right-of-way that substantially change the wireless support structure to which they are attached:

(1) Development Regulations. Non-tower WCFs shall be co-located on existing structures, such as existing buildings subject to the following conditions:

- (a) Such WCF does not exceed a maximum height of 125 feet.
- (b) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (c) A minimum eight foot (8') 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.

(2) Design Regulations.

- (a) Non-tower WCFs shall employ stealth technology and be treated to match the supporting 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 Borough.
- (b) Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a special exception from the Borough's Zoning Hearing Board.
- (c) All non-tower WCF applicants must submit documentation to the Borough justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- (d) 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.
- (e) Noncommercial Usage Exemption. The design regulations enumerated in this paragraph shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.
- (f) Replacement Support Structures. Existing above-ground structures may be replaced with structurally hardened, fitted or reinforced support structures so long as the replacement structure is, in the approval authority's discretion, substantially similar to the existing structure being replaced.

(3) Removal, Replacement, Modification.

- (a) The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennae.
- (b) Any material modification to a wireless telecommunication facility shall require a prior amendment to the original permit or authorization.

(4) Visual or Land Use Impact. The Borough reserves the right to deny an application for the construction or placement of any non-tower WCF based upon visual and/or land use impact.

(5) Inspection. The Borough reserves the right to inspect any WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Borough Code or State or Federal law. The Borough 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.

D. Non-Tower Wireless Communications Facilities in the Right-of-Way. The following additional regulations shall apply to all non-tower wireless communications facilities located in the right-of-way:

(1) Non-tower WCFs in the ROW must be installed on a structure.

(2) Co-location. Non-tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles or light poles, except as provided in Section 623(B)(3)(d).

(3) Design Requirements.

- (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 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) Antennae and all support equipment shall be treated to match 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.

(4) Compensation for ROW Use. In addition to permit fees as described above, every non-tower WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable compensation to be paid for use and

occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each non-tower WCF shall pay an annual fee to the Borough to compensate the Borough for its costs incurred in connection with the activities described above. The annual ROW management fee for non-tower WCFs shall be determined by the Borough and authorized by resolution of Borough Council and shall be based on the Borough's actual ROW management costs as applied to such non-tower WCF.

- (5) Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, relocation requirements for public utilities, and related considerations.
- (6) Equipment Location. Non-tower 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 Borough. In addition:
 - (a) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - (b) Ground-mounted equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Borough Engineer, that ground-mounted equipment cannot be undergrounded, 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 Borough.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
 - (d) 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 notice of the existence of the graffiti.
 - (e) Any underground vaults related to non-tower WCFs shall be reviewed and approved by the Borough.
 - (f) Not be located within an easement other than a utility easement.
 - (g) New ground mounted cabinets shall not be installed above ground directly in front of a residential structure. [Ord. 1376]

- (7) Relocation or Removal of Facilities. Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall 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 Borough or other public improvement in the right-of-way.
 - (b) The operations of the Borough or other governmental entity in the right-of-way.
 - (c) Vacation of a street or road or the release of a utility easement.
 - (d) An emergency as determined by the Borough.
- (8) Visual or Land Use Impact. The Borough retains the right to deny an application for the construction or placement of a non-tower WCF based upon visual and/or land use impact.
- (9) The Borough shall be named as an additional insured on all applicable insurance policies.
- (10) Antenna Volume. Each antenna associated with a wireless facility in the public rights-of-way shall not exceed three (3) cubic feet in volume, and the cumulative volume for all antennas associated with a wireless facility in the public rights-of-way shall not exceed six (6) cubic feet in total volume. For the purposes in this paragraph (10), “volume” shall include any shroud, radome or other concealment device used in connection with the antenna.
- (11) Accessory Equipment Volume. The cumulative volume for all non-antenna accessory equipment associated with a wireless facility in the public rights-of-way shall not exceed twenty-eight (28) cubic feet. For the purposes in this paragraph (11), “volume” shall include any shroud, cabinet, housing or other concealment device used in connection with the accessory equipment, but shall not include any equipment or other improvements installed below ground level or any cables or connectors placed within the pole or other support structure.

(Ord. 1234, 2/11/2003, §1, entitled “Regulations Governing Communication Towers and Antennas” was deleted in its entirety by Ord. 1371, 9/8/2015, §7; replaced in its entirety by Ord. 1371, 9/8/2015, §§ 8 and 9; as amended by Ord. 1376, 12/8/2015, §§ 2 and 3; as amended by Ord. 1386, 1/9/2018, §3)

SECTION 2. Repeal of Ordinances.

Any ordinance or part of ordinances conflicting with the provisions of this Ordinance is hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

SECTION 3. Severability.

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Borough Council of the Borough of Wyomissing, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 4. Effective Date.

The effective date of the within amendments shall be immediately upon its enactment and approval by the Mayor.

SECTION 5. Code of Ordinances.

The Code of Ordinances, as amended, of the Borough of Wyomissing, Berks County, Pennsylvania shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances upon adoption.

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DULY ORDAINED and ENACTED as an Ordinance this _____ day of _____, 2021.

BOROUGH OF WYOMISSING
Berks County, Pennsylvania

By: _____
Thomas M. Moll
President of Borough Council

Attest: _____
Melissa Miller
Secretary of the Borough

APPROVED this _____ day of _____, 2021.

Frederick C. Levering
Mayor of the Borough

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. _____ -
2021 adopted by the Borough Council of the Borough of Wyomissing, Berks County,
Pennsylvania at a regular meeting held on _____, 2021, pursuant to notice
as required by law.

Melissa Miller
Secretary of the Borough