

PAUPACK TOWNSHIP, WAYNE COUNTY PENNSYLVANIA

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE NUMBER 2017-59

An Ordinance to establish uniform standards for the placement, design, permitting, maintenance and use of Wireless Communications Facilities (WCF) in Paupack Township.

**An Ordinance Developed by the Paupack Township Planning Commission in Cooperation with the
Paupack Township Board of Supervisors**

7/13/2017

PAUPACK TOWNSHIP, WAYNE COUNTY
PENNSYLVANIA

WIRELESS COMMUNICATION FACILITIES (WCF)

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Wireless Communications Facilities Ordinance

The Pennsylvania Wireless Broadband Collocation Act of 2012 (53 P.S. § 11702.1), as amended, was used as a reference for this ordinance. This ordinance shall not be construed to be inconsistent with that Act.

SECTION 1 Wireless Communications Facilities (WCF)

A. General Purpose

- (1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance and use of Wireless Communications Facilities (WCF) in Paupack Township. While the Township recognizes the importance of Wireless Communications Facilities (WCF's) in providing high quality communications services to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize adverse visual effects of such facilities through standards set forth in the following provisions.
- (2) Purpose and Findings of Facts:
 - (a) Accommodate the need for Wireless Communications Facilities (WCF) while regulating their location and number so as to ensure the provision for necessary services;
 - (b) Provide for the managed development of Wireless Communications Facilities (WCF) 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 Wireless Communications Facilities (WCF) in the Township, including facilities both inside and outside the public rights-of-way;
 - (d) Promote the health, safety and welfare of the Township's residents;
 - (e) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other Wireless Communications Facilities (WCF); and
 - (f) Minimize adverse visual effects and the number of such facilities through proper design, siting, screening, material, color, and finish and by requiring that competing providers of such services collocate their commercial communications antennas and related facilities on existing towers.

SECTION 2 Definitions

Antenna — any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include Tower-Based Wireless Communications Facilities as defined below.

Collocation—the mounting of one or more WCFs, including antennae, on an existing Tower-Based WCF, or on any structure that already supports at least one Non-Tower WCF.

Distributed Antenna Systems (DAS)—network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

Emergency—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.

FCC—Federal Communications Commission.

Height of a Tower-Based WCF - the vertical distance measured from the ground level, including any base pad, to the highest point on a Tower-Based WCF, including antennae mounted on the tower and any other appurtenances.

Monopole—a WCF or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connecting appurtenances.

Non-Tower Wireless Communications Facility (Non-Tower WCF)—all Non-Tower Wireless Communications Facilities (WCF), including but not limited to, antennae and Related Equipment. Non-Tower WCF shall not include support structures for antennae or any Related Equipment that is mounted to the ground or at ground-level.

Related Equipment—any piece of equipment related to, incidental to, or necessary for, the operation of a Tower-Based WCF or Non-Tower WCF. By way of illustration, not limitation, related equipment includes generators and base stations.

Stealth Technology—camouflaging methods applied to wireless communications towers, antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

Substantially Change or Substantial Change - (1) Any increase in the height of a Wireless Support Structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennae; or (2) any further increase in the height of a Wireless Support Structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

Tower-Based Wireless Communications Facility (Tower-Based WCF)—any structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be Tower-Based WCF.

WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)

Wireless—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

Wireless Communications Facility (WCF)—the antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications service.

Wireless Communications Facility Applicant (WCF Applicant) —any person who applies for a wireless communication facility construction and/or zoning permit or permission to use the public right-of-way (ROW) or other Township-owned land or property.

Wireless Support Structure—a freestanding structure, such as a Tower-Based wireless communications facility or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Township.

SECTION 3 Non Tower Wireless Communications Facilities

A. General and Specific Requirements for Non-Tower Wireless Communications Facilities.

- (1) The following regulations shall apply to all Non-Tower Wireless Communications Facilities (WCF):
 - (a) Non-Tower WCF are permitted in all zoning districts subject to the regulations and conditions of this Ordinance and subject to applicable permitting by the Township.
 - (b) Nonconforming Wireless Support Structures. Non-tower WCF shall be permitted to co-locate upon non-conforming Tower-Based WCF and other non-conforming structures. Co-location of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is nonconforming as to use within a zoning district.

- (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, and National Electrical Code as the same have been adopted by the Township. 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.
- (d) Wind. All Non-Tower WCF structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
- (e) Aviation safety. Non-Tower WCF shall comply with all federal and state laws and regulations concerning aviation safety and with the FAA rules and regulations. An airport exists within the township. Cherry Ridge Airport Surface Area is illustrated on the Paupack Township Zoning Map.
- (f) Public safety communications. Non-Tower WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (g) Radio frequency emissions. A Non-Tower WCF shall not, 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 Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
 - (i) All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (ii) If the WCF or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the 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.

- (i) Insurance. Each Person who 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, or at such an amount set by the Paupack Township Supervisors.

- (j) Indemnification. Each person that owns or operates a Non-Tower 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 Non-Tower WCF. Each person that owns or operates a Non-Tower 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 Non-Tower 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.

- (k) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - (i) The Non-Tower WCF 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.
 - (iv) Township shall be notified in writing of any additions, changes, and removal of equipment attached to the antennae and their attachments. Emergency and maintenance procedures are exempt from the notification clause except in the case of a repair that results in a visual impact (change) from the original design.

- (l) Reservation of rights. In accordance with applicable law and as set forth in more detail in subsequent design and development standards below, the Township reserves the right to deny an application for the construction or placement of any Non-Tower WCF for numerous factors, which include but are not limited to, visual impact, design, and safety standards.

- (2) The following regulations shall apply to all collocated Non-Tower WCF that do not substantially change the physical dimensions of the wireless support structure to which they are attached, and/or fall under the Pennsylvania Wireless Broadband Collocation Act:
- (a) Permit required. WCF Applicants proposing the modification of an existing Tower-Based WCF shall obtain all required permits including building, zoning, and applicable permits. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures. Other permits outside of the township, Federal, State, and Local, may also be required.
 - (b) Timing of approval for applications that fall under the WBCA. Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the WCF Applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the Township's sixty (60) day review period.
 - (c) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Non-Tower WCF or \$1,000, whichever is less.
- (3) The following regulations shall apply to all Non-Tower WCF that do Substantially Change the Wireless Support Structure to which they are attached, or that otherwise do not fall under the Pennsylvania Wireless Broadband Collocation Act:
- (a) Prohibited in L-1 Lake District. No Non-Tower WCF shall be located in the L-1 Lake District.
 - (b) Historic Buildings. No Non-Tower WCF may be located upon any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or on that official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township to be of historical significance.
 - (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 WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in

providing expert evaluation and consultation in connection with these activities.

- (e) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Non-Tower WCF, as well as related inspection, monitoring and related costs.
- (f) Development Regulations. Non-Tower WCF shall be co-located on existing Wireless Support Structures, such as existing buildings or Tower-Based WCF, subject to the following conditions:
 - (i) The total height of any Wireless Support Structure and mounted WCF shall not exceed twenty feet (20') feet above the maximum height permitted in the underlying zoning district, unless the WCF Applicant applies for, and subsequently obtains, a variance.
 - (ii) In accordance with industry standards, all Non-Tower WCF Applicants must submit documentation to the Township justifying the total height of the Non-Tower WCF. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (iii) If the WCF Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (g) Security Fencing. A security fence may be required by the Paupack Township Supervisors based on location and equipment size. Consideration shall be given to the health, safety, and welfare of the residents of Paupack Township.
- (h) Design Regulations.
 - (i) Non-Tower WCF shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township.
 - (ii) Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen band radios, and antennae for the purpose of maintaining television, phone, amateur radio, and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the Zoning Ordinance.
- (i) Removal, Replacement and Modification.

- (i) The removal and replacement of Non-Tower WCF and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not substantially change the overall size of the WCF or the numbers of antennae.
- (ii) Any modification to a WCF shall require notice to be provided to the Township, and a supplemental permit approval may be required if the Township determines that the modification is material.
- (j) Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

B. Regulations Applicable to All Non-Tower WCF Located in Public Rights of Way.

In addition to the Non-Tower WCF regulations set forth in Section 2, above, all Non-Tower WCF located in a public right of way and not covered under the PA Wireless Broadband Collocation Act, shall comply with the following regulations:

- (1) Location. Non-Tower WCF in the ROW shall be located or co-located on existing poles, such as existing utility poles or light poles. If co-location is not technologically feasible, the WCF Applicant shall locate its Non-Tower WCF on existing poles or freestanding structures that do not already act as Wireless Support Structures with the Township's approval.
- (2) 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 feet (6') in height and that are compatible in scale and proportion to the structures upon which they are mounted. They shall not impede pedestrian or vehicular sight lines or navigation. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - (b) Antenna and Related Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
 - (c) Time Place and Manner. The Township or State shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

- (d) Equipment Location. Non-Tower WCFs and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
 - (i) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within two feet (2') of the street cart way or within an easement extending onto a privately-owned lot;
 - (ii) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township if screening is deemed necessary or appropriate in the circumstances.
 - (iii) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (iv) Any graffiti (unauthorized writing or drawing) on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner, promptly or within ten (10) days after date of Township's notice to do so.
 - (v) Any proposed underground vault related to Non-Tower WCF shall be reviewed and approved by the Township.

- (e) Relocation and/or Removal of Facilities. Within sixty (60) days after the date of 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:
 - (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.
- (t) Repair, Replacement and/or Removal of Facilities and Related Equipment.
 - (i) The owner of any WCF or Related Equipment located within the right of way of a public street in the Township shall ensure that any damaged WCF or Related Equipment is repaired, restored and/or replaced within sixty (60) days after damage or casualty to the same is sustained.
 - (ii) The owner of any WCF or Related Equipment located within the right of way of a public street in the Township shall give notice to the Township within ten (10) days after such WCF and/or Related Equipment ceased being used or operational, and shall remove the same from the public right of way at owner's sole expense within sixty (60) days after such WCF and/or Related Equipment ceased being used or operational.
- (g) Inspections. The Township may inspect facilities within a public right of way without any prior notice being given.

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

- (1) The following regulations shall apply to all Tower-Based Wireless Communications Facilities.
 - (a) Standard of 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, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any 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 Township.
 - (b) Notice. Upon submission of an application for a tower-based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall mail notice to all owners of every property within five hundred feet (500') of the proposed facility. The WCF applicant shall provide proof of the notification to the Township.
 - (c) Special Exception Use. Tower-based WCF are authorized in certain zoning districts as a use on special exception at a height necessary to satisfy their function in the WCF Applicant's wireless communications system. A tower-based WCF applicant shall submit an application to the Township, demonstrating that the proposed facility complies with all

applicable provisions in the Township Zoning Code. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF Applicant shall demonstrate that the antenna/tower/pole for the Tower-Based WCF is the minimum height necessary for the service area. Such use on special exception is further subject to the provisions of Section 3 of this Ordinance. The special exception application shall further include proof or documentation of the following:

- (i) The WCF Applicant cannot adequately extend or infill its communications system by the use of equipment such as radios, repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable alternative location exists.
 - (ii) A propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.
 - (iii) Documentation demonstrating that the proposed tower-based WCF complies with all state and federal laws and regulations concerning aviation safety. An airport exists within the township. Cherry Ridge Airport Surface Area is illustrated on the Paupack Township Zoning Map.
 - (iv) Where the tower-based WCF is located on a property with another principal use, the WCF Applicant shall present documentation to the Zoning Hearing Board that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.
 - (v) Documentation demonstrating that the proposed tower-based WCF complies with all applicable provisions in this section.
- (d) Engineer Inspection. A professional structural engineer, licensed in the Commonwealth of Pennsylvania ("Structural Engineer") shall provide to the Township a written certification and of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the special exception hearings

or at a minimum be made as a condition attached to any approval given such that the certification be provided prior to issuance of any zoning and/or construction permits.

- (e) Visual Appearance and Land Use Compatibility. Tower-Based WCF shall employ Stealth Technology which may include the tower portion to be painted silver or another color approved by the Zoning Hearing Board, or shall have a galvanized finish. All Tower-Based WCF and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

- (f) Collocation and Siting: An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building, or sited on land owned and maintained by Paupack Township. The Township may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the commercial communications antenna(s) on an existing structure. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter (1/4) of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - (i) The proposed antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - (ii) The proposed antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - (iii) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (iv) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

- (g) Permit Required for Modification. To the extent permissible under state and federal law then applicable, any WCF Applicant proposing modification of an existing Tower-Based WCF which increases the overall height of such WCF shall first obtain a permit from the Township. Non-routine modifications are prohibited without the prior grant of a permit.
- (h) Gap in Coverage. A WCF 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 non-existence of a gap in wireless coverage or capacity shall be a factor in the Township's decision on an application for approval of Tower-Based WCF.
- (i) Additional Antennae. As a condition of approval for all Tower-Based WCF, the WCF Applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on Tower-Based WCF 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 Township.
- (j) Wind. Any Tower-Based WCF structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
- (k) Height. Any Tower-Based WCF shall be designed at the minimum functional height. Each application could be reviewed by the local Fire Department for assessment of ability to extinguish a fire on the tower.
- (l) Related Equipment. Either one single-story wireless communications equipment building not exceeding 500 square feet in area or up to five metal boxes placed on a concrete pad not exceeding 10 feet by 20 feet in area housing the receiving and transmitting equipment may be located on the site for each unrelated company sharing commercial communications antenna(e) space on the Tower-Based Wireless Communications Facility.
- (m) Public Safety Communications. No Tower-Based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (n) Maintenance. The following maintenance requirements shall apply:
 - (i) Any Tower-Based WCF 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 WCF in order to promote the safety and security of the Township's residents, and utilize the best available technology for preventing failures and accidents.
- (o) Radio Frequency Emissions. A Tower-Based WCF shall not, 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.
- (p) Historic Buildings or Districts. A Tower-Based WCF shall not be located upon a property, and/or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Township.
- (q) Signs. All Tower-Based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- (r) Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Strobe lighting is prohibited. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary and shall correct such malfunction or outage as soon as is practicable.
- (s) Noise. Tower-Based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and/or such as to constitute a nuisance under the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (t) Retention of Experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (u) Timing of Approval. Within thirty (30) calendar days of the date that an application for a Tower-Based WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information

that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Tower-Based WCF and the Township shall advise the WCF Applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the one hundred fifty (150)-day review period.

- (v) Non-Conforming Uses. Non-conforming Tower-Based WCF 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.
- (w) 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 WCF or portions of WCF shall be removed as follows:
 - (i) All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within ninety (90) days of the cessation of operations at the site unless a time extension is approved by the Township.
 - (ii) If the WCF and/or accessory facility is not removed within ninety (90) days 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.
 - (iii) Any unused portions of Tower-Based WCF, including antennae, shall be removed within ninety (90) days of the time of cessation of operations. The Township must approve all replacements of portions of a Tower-Based WCF previously removed.
- (x) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Tower-Based WCF, as well as related inspection, monitoring, and related costs.
- (y) FCC License. Each person that owns or operates a Tower-Based WCF over forty feet (40') in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (z) Insurance. Each person that owns or operates a Tower-Based WCF greater than forty feet (40') 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. Each Person that owns or operates a Tower-Based WCF forty feet (40') 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.

- (aa) Indemnification. Each person that owns or operates a Tower-Based 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 Tower-Based WCF. Each person that owns or operates a Tower-Based 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 Tower-Based 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.
- (bb) Certification by Engineer. All plans and drawings for a Tower-Based WCF shall contain a seal and signature of a Structural Engineer.
- (dd) Financial security. The amount of financial security shall be equal to 110% of the required improvements for which financial security is to be posted. The cost of the improvements shall be established by submission to Paupack Township of bona fide bid or bids from the contractor or contractors chosen by the party posting the financial security to complete the improvements. If the party posting the financial security requires more than one (1) year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one(1) year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as re-established on or about the expiration of the preceding one (1) year period by using the above bidding procedure. Said financial security shall remain in place until the Tower-Based WCF is removed.

(2) The following regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Public Rights-of-Way:

- (a) Development Regulations.

- (i) Tower-Based WCF shall not be located in, or within one hundred feet (100') of an area in which utilities are primarily located underground.
 - (ii) Sole Use on a Lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying zoning conforms to minimum setbacks defined in (iii) (3) below. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall be equal to the proposed WCF structure height plus 30 feet.
 - (iii) Combined With Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, 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 WCF.
 - (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, buffer planting, etc. if the proposed WCF is greater than forty feet (40') in height.
 - (3) Minimum setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall be equal to one and one half (1-1/2) the total height of the Tower-Based WCF or the minimum setback of the underlying zoning district, whichever is greater. Where the site on which a Tower-Based WCF is proposed to be located is contiguous to an educational use, child day-care facility, or agriculture or residential use, the minimum distance between the base of a Tower-Based WCF and any such adjoining uses shall equal two hundred fifty feet (250'), regardless of the height of the Tower-Based WCF, unless it is demonstrated to the reasonable satisfaction of the Board that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants. No Tower-Based WCF shall be located within its own total height of a site boundary line.
- (b) Design Regulations.

- (i) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township.
 - (ii) To the extent permissible by law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Township.
 - (iii) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.
 - (iv) Any Tower-Based WCF over forty feet (40') in height shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (c) Surrounding Environs.
- (i) 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.
 - (ii) The WCF Applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.
- (d) Fence/Screen.
- (ii) Security Fencing. A security fence may be required by the Paupack Township Supervisors based on location and equipment size. Consideration shall be given to the health, safety, and welfare of the residents of Paupack Township.
 - (iii) Landscaping shall be required to screen as much of a newly constructed Tower-Based WCF as possible. The Zoning Hearing Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Board, they achieve the same degree of screening. Existing vegetation shall be preserved to the maximum extent possible.
- (e) Accessory Equipment.
- (i) Ground-mounted Related Equipment associated to, or connected with, a Tower-Based WCF shall be placed underground or

screened from public view using Stealth Technologies, as described above.

- (ii) All Related Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
 - (f) Access Road. An access road, turnaround space and parking 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 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 Township that the property owner has granted an easement for the proposed facility, access road, turn-around space and parking area.
 - (g) Parking. For each Tower-Based WCF greater than forty feet (40') in height, there shall be two off-street parking spaces.
 - (h) Inspection. The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (3) The following regulations shall apply to Tower-Based Wireless Communications Facilities located in the Public Rights-of-Way.
- (a) Location and development standards.
 - (i) Tower-Based WCF forty feet (40') or shorter in height are prohibited in areas in which utilities are located underground.
 - (ii) Tower-Based WCF forty feet (40') or shorter in height shall not be located in the front facade area of any structure.
 - (iii) Tower-Based WCF forty feet (40') or shorter in height shall be permitted along certain collector roads and arterial roads throughout the Township, regardless of the underlying zoning district, provided that they are not situated within fifty feet (50') of an area in which utilities (including water, sewer, gas, electric and communications) are underground.
 - (b) Time Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCF in the ROW based on public safety, traffic

management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

(c) Equipment Location. Tower-Based WCF and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:

- (i) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within two feet (2') of the street cart way.
- (ii) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
- (iii) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
- (iv) Any graffiti (unauthorized writing or drawing) on the tower or on any Related Equipment shall be removed at the sole expense of the owner, promptly and in any event within ten (10) days after any notice from the Township to do so.
- (v) Any underground vaults related to Tower-Based WCFs shall be reviewed and approved by the Township.

(d) Design regulations.

- (i) 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 Township.
- (ii) Tower-Based WCF in the public ROW shall not exceed forty feet (40') in height.
- (iii) To the extent permissible under state and federal law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Township, and shall not increase the overall height of the Tower-Based WCF to more than forty feet (40').
- (iv) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.

(e) Relocation or Removal of Facilities. Within 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 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:

- (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.

D. Reservation of Police Powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.

SECTION 4. Tower-Based WCF

A. Tower-Based Wireless Communications Facilities

- (1) All regulations set forth in Section 2 governing Wireless Communications Facilities shall apply.
- (2) Co-location of wireless communications facilities shall be encouraged whenever practicable.
- (3) Use of alternative tower structures shall be encouraged whenever practicable.
- (4) The physical conditions and circumstances of the subject premises and of adjacent uses, including topography, existing trees or other potential sight screens, shall be considered and may, in appropriate circumstances in the authorized use districts, warrant minor deviations in setback or height regulations subject to standards

established in Section 125-14, so long as such deviations do not expose adjacent properties or uses to risk of harm or material detriment.

- (5) Evidence of licensure, interests in the subject property, insurance, engineering certifications and other documents required under Section 2 may be submitted and received as exhibits without requiring an applicant to testify as to such matters, except as the Zoning Hearing Board deems necessary.
- (6) Rights accorded owners and operators of wireless communications facilities under Federal law shall be respected, such that opposition to a lawful and authorized use as such shall not be grounds for denial of the use.
- (7) The Township shall attach such reasonable conditions upon a use as it deems necessary in the circumstances to effectuate the purposes of the Ordinance and to protect the interest of the public and reasonable interests of adjacent uses and developments.
- (8) When requested by the Township or the County of Wayne, a 10-foot space shall be provided on the tower structure for public safety antennae.
- (9) Regulations in Section 125-14 requiring submission by applicants of inspection reports and ongoing compliance with applicable laws and regulations shall constitute conditions on all uses granted on special exception without being fully recited.

SECTION 5. Zoning Districts and approved usage

5.1 The following table defines the zoning districts where WCFs can be located as well as their defined use.

R-R	Rural Residential District
R-1	Low Density Residential
C-1	General Commercial District
C-2	Resort Commercial District
S-1	Conservation District
L-1	Lake District – Lake Wallenpaupack (proper) and land up to the original Project Line

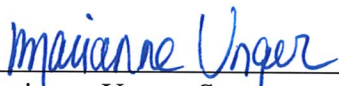
WCF TYPE	PERMITTED ZONING DISTRICTS	TYPE OF USE
Tower-Based WCF Located in the ROW	Non-Residential Zoning Districts (C-1, C-2 and S-1)	Permitted
	Residential Zoning Districts (R-R and R-1)	Special Exception
Tower-Based WCF where the Tower is 40' or less in height and located out of the ROW	Non-Residential lots or properties in Residential Zoning Districts (R-R and R-1)	Permitted Use
	Zoning Districts (C-1, C-2 and S-1)	
	Municipal owned property in all zoning districts (C-1, C-2, S-1)	
	Residential (R-R and R-1)	Special Exception
Tower-Based WCF where the Tower is more than 40' in height and located out of the ROW	Non-Residential Districts (C-1, C-2 and S-1)	Permitted Use
	Church, School, Public or Semi-Public or other institutional lots or properties in Residential Zoning Districts (R-R and R-1)	Special Exception
	Residential (R-R and R-1)	Special Exception
WCF on Existing Structures	All Zoning Districts except L-1 Lake District	Permitted Use

SECTION 6. Severability

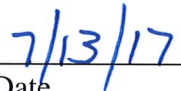
If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such invalid or unconstitutional provision of its application not been included herein.

SECTION 7. Adoption


On the 13th day of July, 2017, the Paupack Township Board of Supervisors adopted the Ordinance Number 2017-59 the Paupack Township Wireless Communications Facilities Ordinance by a vote of three 3 yes and zero 0 no.




Marianne Unger, Secretary



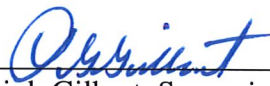
Date



Bruce Chandler, Chairperson



James R. Martin, Supervisor



Leigh Gilbert, Supervisor