

TOWNSHIP OF SPRING
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 424

AN ORDINANCE OF THE TOWNSHIP OF SPRING, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER XXXII, ENTITLED "ZONING" OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF SPRING TO: (1) AMEND SECTION 202 ENTITLED "DEFINITIONS" TO REPEAL AND REMOVE THE FOLLOWING DEFINITIONS: COMMUNICATIONS ANTENNA, COMMUNICATIONS EQUIPMENT BUILDING, COMMUNICATIONS TOWER, AND HEIGHT OF A COMMUNICATIONS TOWER; (2) AMEND IN ITS ENTIRETY SECTION 324 ENTITLED "COMPLIANCE AND PERFORMANCE STANDARDS FOR CERTAIN PRINCIPAL USES", SUBSECTION (28) ENTITLED "COMMUNICATIONS ANTENNAE AND ASSOCIATED COMMUNICATIONS EQUIPMENT BUILDINGS", TO (A) PROVIDE FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; (B) ADD DEFINITIONS FOR APPLICANT, COLLOCATION, COMMUNICATIONS ANTENNA, COMMUNICATIONS TOWER, CONTEXT SENSITIVE, DISTRIBUTED ANTENNA SYSTEMS (DAS), DISTRIBUTED ANTENNA SYSTEM HUB, EMERGENCY, FEDERAL TRADE COMMISSION (FCC), HEIGHT OF COMMUNICATIONS TOWER, PUBLIC STREET RIGHT OF WAY OR PUBLIC STREET ROW, RELATED EQUIPMENT, STEALTH TECHNOLOGY, SUBSTANTIALLY CHANGE OR SUBSTANTIAL CHANGE, PENNSYLVANIA WIRELESS BROADBAND COLLOCATION ACT (WBCA), WIRELESS, WIRELESS COMMUNICATIONS FACILITY (WCF), AND WIRELESS SUPPORT STRUCTURE; (C) ESTABLISH CERTAIN GENERAL AND SPECIFIC REQUIREMENTS FOR COMMUNICATIONS ANTENNAE, INCLUDING PERMIT REQUIREMENTS, STANDARD OF CARE, LOCATIONS PERMITTED BY RIGHT, LOCATIONS PERMITTED BY SPECIAL EXCEPTION, HISTORIC AREAS, RESISTANCE TO WIND, AVIATION SAFETY, PUBLIC SAFETY COMMUNICATIONS AND OTHER COMMUNICATIONS SERVICES, RADIO FREQUENCY EMISSIONS, REMOVAL, INSURANCE, INDEMNIFICATION REQUIREMENTS, MAINTENANCE, AND REMOVAL AND REPLACEMENT OR MODIFICATION OF COMMUNICATIONS ANTENNAE AND / OR RELATED EQUIPMENT; (D) ESTABLISH CERTAIN REGULATIONS REGARDING COMMUNICATIONS ANTENNAE FALLING UNDER THE WIRELESS BROADBAND COLLOCATION ACT, INCLUDING PERMIT REQUIREMENTS, TIMING OF APPROVAL, RELATED EQUIPMENT AND PERMIT FEES; (E) ESTABLISH CERTAIN REGULATIONS REGARDING COMMUNICATIONS ANTENNAE THAT DO NOT FALL UNDER THE WIRELESS BROADBAND COLLOCATION ACT, INCLUDING PROHIBITED STRUCTURES,

RETENTION OF EXPERTS, PERMIT FEES, COLLOCATE REQUIREMENTS, SECURITY FENCING, NONCOMMERCIAL USAGE EXEMPTION, DESIGN REGULATIONS AND INSPECTION REQUIREMENTS; AND (F) ESTABLISH CERTAIN REGULATIONS REGARDING COMMUNICATIONS ANTENNAE LOCATED IN THE PUBLIC RIGHTS OF WAY, INCLUDING CO-LOCATION, SPECIAL EXCEPTION APPROVAL REQUIREMENTS, AND DESIGN REQUIREMENTS, TIME, PLACE AND MANNER OF CONSTRUCTION, EQUIPMENT LOCATION, AND RELOCATION OR REMOVAL OF FACILITIES; (3) AMEND IN ITS ENTIRETY SECTION 324 ENTITLED "COMPLIANCE AND PERFORMANCE STANDARDS FOR CERTAIN PRINCIPAL USES", SUBSECTION (29) ENTITLED "COMMUNICATIONS TOWNERS" TO: (A) PROVIDE FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; (B) ADD DEFINITIONS FOR APPLICANT, COLLOCATION, COMMUNICATIONS ANTENNA, COMMUNICATIONS TOWER, CONTEXT SENSITIVE, DISTRIBUTED ANTENNA SYSTEMS (DAS), DISTRIBUTED ANTENNA SYSTEM HUB, EMERGENCY, FEDERAL TRADE COMMISSION (FTC), HEIGHT OF COMMUNICATIONS TOWER, PUBLIC STREET RIGHT OF WAY OR PUBLIC STREET ROW, RELATED EQUIPMENT, STEALTH TECHNOLOGY, SUBSTANTIALLY CHANGE OR SUBSTANTIAL CHANGE, PENNSYLVANIA WIRELESS BROADBAND COLLOCATION ACT (WBCA), WIRELESS, WIRELESS COMMUNICATIONS FACILITY (WCF), AND WIRELESS SUPPORT STRUCTURE; (C) ESTABLISH CERTAIN GENERAL AND SPECIFIC REQUIREMENTS FOR ALL COMMUNICATIONS TOWERS, INCLUDING: STANDARD OF CARE, LOCATIONS PERMITTED BY SPECIAL EXCEPTION, SPECIAL EXCEPTION PROCESS AND REQUIRED INFORMATION, ENGINEER INSPECTION REQUIREMENTS, VISUAL APPEARANCE, COLLOCATION AND SITING OF NEW COMMUNICATIONS TOWERS, PERMIT REQUIREMENTS FOR MODIFICATIONS, GAP IN COVERAGE OR CAPACITY, ADDITIONAL COMMUNICATIONS ANTENNAE, RESISTANCE TO WIND, HEIGHT, RELATED EQUIPMENT, PUBLIC SAFE COMMUNICATIONS AND OTHER COMMUNICATIONS SERVICES, MAINTENANCE, RADIO FREQUENCY EMISSIONS, HISTORIC BUILDINGS OR DISTRICTS, SIGNS, LIGHTING, NOISE, AVIATION SAFETY, RETENTION OF EXPERTS, TIMING OF APPROVAL, NONCONFORMING TOWNERS, REMOVAL, PERMIT FEES, FCC LICENSE REQUIREMENTS, INSURANCE, INDEMNIFICATION, ENGINEER SIGNATURE, AND FINANCIAL SECURITY; (D) ESTABLISH CERTAIN REGULATIONS REGARDING COMMUNICATIONS TOWERS OUTSIDE THE PUBLIC STREET RIGHT OF WAY (ROW), INCLUDING DEVELOPMENT REGULATIONS, DESIGN REGULATIONS, SURROUNDING ENVIRONS, FENCE / SCREEN, RELATED EQUIPMENT, ACCESS ROAD, PARKING, AND INSPECTION; (E) ESTABLISH CERTAIN REGULATIONS REGARDING COMMUNICATIONS TOWERS INSIDE

THE PUBLIC RIGHT OF WAY (ROW), INCLUDING LOCATION AND DEVELOPMENT STANDARDS, TIME, PLACE AND MANNER OF CONSTRUCTION, EQUIPMENT LOCATION, DESIGN REGULATIONS, RELOCATION OR REMOVAL OF FACILITIES, AND REIMBURSEMENT FOR PUBLIC STREET RIGHT OF WAY (ROW) USE; AND (4) ESTABLISH REGULATIONS REGARDING POLICE POWERS, SEVERABILITY AND EFFECTIVE DATE OF ORDINANCE.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of the Township of Spring, Berks County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I: Repealer of Definitions

A. The following definitions are hereby repealed and removed from Section 202, Definitions, of the Spring Township Zoning Code: “Communications Antenna,” “Communications Equipment Building,” “Communications Tower,” and “Height of a Communications Tower.”

SECTION II: Repealer, Replacement and Adoption of New Communications Antennae and New Communications Towers Provisions

The terms, conditions, and provisions of Section 324(B)(28) and 324(B)(29) of the Spring Township Zoning Code are hereby repealed, removed, and replaced by the following:

(28) Communications Antennae

A. Purposes and Findings of Fact.

(1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of Wireless Communications Facilities in the Township. While the Township recognizes the importance of Wireless Communications Facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to promote public safety, to minimize the adverse visual effects, and to promote the Context Sensitivity of such facilities through the standards set forth in the following provisions.

(2) By enacting these provisions, the Township intends to:

- a. Accommodate the need for Wireless Communications Facilities while regulating their location and number so as to ensure the provision of necessary services;
- b. Provide for the managed development of Wireless Communications Facilities 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 Communications Towers and Communications Antennae in the Township, including facilities both inside and outside the Public Street ROW;
- d. Address new wireless technologies, including but not limited to, Distributed Antenna Systems, data collection units, and other Wireless Communications Facilities;
- e. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that competing providers of wireless communications services co-locate their Communications Antenna and related facilities on existing towers or infrastructure; and
- f. Promote the health, safety and welfare of the Township's residents.

B. Definitions. The following terms are defined for purposes of this Section alone. All other defined terms, which may also be applicable to this Section, are contained within Section 202.

APPLICANT - any entity or person that applies for a building permit, for zoning approval and/or for permission to use the Public Street ROW for a Wireless Communications Facility , within the Township.

COLLOCATION - the mounting of one or more Communications Antennae, on an existing Communications Tower, or on any structure that has been previously approved by the Township to support at least one Communications Antenna.

COMMUNICATIONS ANTENNA - any antenna and Related Equipment attached to a Wireless Support Structure. Communications Antennae shall not include support structures for antennae or any Related Equipment that is mounted to the ground or at ground-level. This definition shall not include any antenna owned and or operated by a federally licensed amateur radio operator, and operated solely for such amateur radio communications purposes.

COMMUNICATIONS TOWER - any structure that is constructed for the primary purpose of supporting one or more Communications Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. Distributed antenna system hub facilities are considered to be Communications Towers. This definition shall not include towers and supportive structures for amateur purposes, including but not limited

to ham and citizens band radios maintained and/or utilized by federally licensed amateur radio operators.

CONTEXT SENSITIVE - A design concept applicable to Wireless Communication Facilities, in which the design of the facilities is complementary to and integrated with the aesthetics of its adjacent environs, which may range in scope, at the discretion of the Municipality, from the immediate area surrounding the item in question to the Municipality as a whole. Also may be referred to as "Context Sensitivity". An example of a facility that does not exhibit Context Sensitivity would be the use of a silo for stealth purposes within an urbanized or commercial area.

DISTRIBUTED ANTENNA SYSTEMS (DAS) – a network of spatially separated antenna or node sites connected to a common source that provides wireless service within a geographic area or building.

DISTRIBUTED ANTENNA SYSTEM HUB - the point or structure to which the cellular signals are routed, via fiber optic cable or other means, in order to be processed by a cellular base station for distribution and/or broadcast.

EMERGENCY - a condition, as determined by the Township or its designee, 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 Public Street ROW to be unusable and result in loss of the services provided.

FCC - Federal Communications Commission.

HEIGHT OF COMMUNICATIONS TOWER - the vertical distance measured from the ground level, including any base pad, to the highest point on a Communications Tower, including Communications Antennae mounted on the tower and any other appurtenances, such as lightning rods, lighting equipment, etc.

PUBLIC STREET RIGHT-OF-WAY or PUBLIC STREET ROW– land reserved for the public for use as a public thoroughfare, excluding alleys and private thoroughfares.

RELATED EQUIPMENT - any piece of equipment related to, incidental to, or necessary for, the operation of a Communications Tower or Communications Antenna. By way of illustration, not limitation, Related Equipment includes generators and base stations.

STEALTH TECHNOLOGY - camouflaging methods applied to Wireless Communications 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, flagpoles, windmills, silos and light poles. Use of stealth technology shall be Context Sensitive.

SUBSTANTIALLY CHANGE OR SUBSTANTIAL CHANGE - A modification to an existing Wireless Communications Facility that changes the physical dimensions of a Communications Tower or base station if it meets any of the following criteria:

- (a) For a Communications Tower outside the Public Street ROW:
 - (1) it increases the height of the Wireless Communications Facility 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;
 - (2) it protrudes from the edge of the Wireless Communications Facility by more than twenty (20) feet, or more than the width of the Tower structures at the level of the appurtenance, whichever is greater.

- (b) For a Communications Tower in the Public Street ROW:
 - (1) it increases the height of the facility by more than ten percent (10%) or ten (10) feet, whichever is greater;
 - (2) it protrudes from the edge of the structure by more than six (6) feet;
 - (3) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
 - (4) it entails any excavation or deployment outside the current site of the Communications Tower; or
 - (5) it does not comply with conditions associated with prior approval of construction or modification of the Communications Tower, unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.

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, wireless support structure, conduits, ducts, pedestals, electronics and other Related Equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

WIRELESS SUPPORT STRUCTURE a freestanding structure, such as a Communications Tower or any other support structure that could support the placement or installation of a Wireless Communications Facility.

C. General and Specific Requirements for Communications Antennae

- (1) The following regulations shall apply to all Communications Antennae:
 - a. Permit required. The installation, construction and operation of a Communications Antenna shall require a building permit from the Township.

- b. Standard of care. All Communications Antennae 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 Pennsylvania Uniform Commercial Code, American National Standards Institute (ANSI) Code, and National Electrical Code. Any Communications Antennae 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.

- c. Permitted by right in certain zoning districts pursuant to regulations. Communications Antennae are permitted by right pursuant to this zoning ordinance within the following districts, so long as they comply with all of the terms and conditions of this Zoning Ordinance:
 - (1) Rural Holding Area (RHA) District
 - (2) Rural Conservation (RC) District
 - (3) Rural/Suburban (RS) District
 - (4) Planned Highway Interchange (PHI) District
 - (5) Planned Highway Transitional (PHT) District
 - (6) Planned Office/Business (POB) District
 - (7) Planned Business and Residential (PBR) District
 - (8) Planned Industry/Business (PIB) District
 - (9) Extractive Industry (EI) District
 - (10) Manufacturing and Industrial (MI) District
 - (11) Fuel Storage (FS) District

- d. Permitted by special exception in certain zoning districts pursuant to regulations. Communications Antennae are permitted by special exception pursuant to this zoning ordinance within the following districts, so long as they comply with all of the terms and conditions of this Zoning Ordinance:
 - (1) Low Density Suburban (LDS) District
 - (2) Moderate Density Suburban (MDS) District
 - (3) Suburban/Semiurban (SS) District
 - (4) Urban (U) District
 - (5) Penn Avenue Mixed Use (PMU) District
 - (6) Penn Avenue Commercial (PAC) District
 - (7) Neighborhood Convenience (NC) District

- e. Historic areas. No Communications Antenna (either inside or outside the Public Street ROW) may be located upon any property, building, or structure, or within one-hundred (100) feet of such property, building or structure, that is listed on the National or Pennsylvania Registers of Historic Places, listed by the Pennsylvania

Historical and Museum Commission, included in the list of historic buildings in the Township's Comprehensive Plan, or that is deemed by the Township to be of specific historical significance.

- f. Wind. All Communications Antennae, Wireless Support Structures, or other facilities regulated by this Section, shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended).
- g. Aviation safety. Communications Antennae shall comply with all federal and state laws and regulations concerning aviation safety.
- h. Public safety communications and other communications services. Communications Antennae shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- i. Radio frequency emissions. A Communications Antennae shall not, by itself or in conjunction with other Communications Antennae and/or Communications Towers, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- j. Removal.
 - (1) Prior to the issuance of a building permit for a Communications Antenna the owner or operator shall post financial security in a form acceptable to the Township in a sufficient amount to cover the facility removal and site cleanup. Exemption: a commercial communications tower or antenna necessary for and clearly used for emergency communications by a police department, fire company, emergency medical service and other similar public safety organizations is exempt from the requirements of this Section.
 - (2) In the event that use of a Communications Antennae 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 Communications Antennae, or portions of Communications Antennae, shall be removed as follows:
 - (a) All abandoned or unused Communications Antennae and Related Equipment shall be removed within sixty (60) days of the cessation of

operations at the site unless a time extension is approved by the Township.

- (b) If the Communications Antenna or Related Equipment is not removed within sixty (60) days of the cessation of operations at a site, or within any longer period approved by the Township, the financial security may be utilized by the Township to remove the Communications Antenna and/or Related Equipment. In this event, the Township shall provide written notice of such intended action to the Applicant and, after the expiration of thirty (30) days, the Communications Antenna or Related Equipment may be removed by the Township. Furthermore, the Township reserves the right to the salvage value of any removed Communications Antenna and/or Related Equipment, if such Communications Antenna and/or Related Equipment are not removed by the owner within the specific timeframe enumerated in this Chapter.
- k. Insurance. Each person that owns or operates a Communications Antenna shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$3,000,000 per occurrence and property damage coverage in the minimum amount of \$3,000,000 per occurrence covering the Communications Antenna.
- l. Indemnification. Each person that owns or operates a Communications Antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents (individually and/or collectively the "Indemnities"), 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 review, approval, permitting, construction, installation, operation, maintenance or removal of the Communications Antenna. Each person that owns or operates a Communications Antenna shall defend any actions or proceedings against the Indemnities in which it is claimed that personal injury, including death, or property damage was caused by the review, approval, permitting, construction, installation, operation, maintenance or removal of a Communications Antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification. Prior to the issuance of a building permit for such facilities the applicant shall be required to execute an indemnification agreement with the Township.
- m. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- (1) The Communications Antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
- (2) Maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents. At a minimum such maintenance shall be performed at such frequencies and in accordance with the recommendations of the manufacturer(s) of the Communications Antenna and Related Equipment.
- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

n. Removal and Replacement, or Modification.

- (1) To the extent permitted by law, the removal and replacement of Communications Antennae and/or Related Equipment for the purpose of upgrading or repairing the Communications Antenna is permitted, so long as such repair or upgrade does not Substantially Change the overall size of the Wireless Support Structure or the numbers of Communications Antennae.
- (2) Any modification to a Communications Antenna shall require notice to be provided to the Township, and possible supplemental permit approval to the original permit or authorization.

D. Communications Antennae Falling Under the Wireless Broadband Collocation Act

- (1) In addition to the regulations enumerated in Section 324(B)(28)(C)(1), the following regulations shall apply to Communications Antennae that fall under the Pennsylvania Wireless Broadband Collocation Act:
 - a. Permit required. Communications Antenna Applicants proposing changes to an existing Communications Tower, which do not Substantially Change the dimensions of the existing, permitted Wireless Support Structure or otherwise fall under the WBCA, shall obtain a building permit from the Township. In order to be considered for such a permit, the Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.
 - b. Timing of approval for applications that fall under the WBCA. Within thirty (30) calendar days of the date that an application for a Communications Antenna is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within 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 Applicant in writing of such decision.

- c. Related Equipment. New ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use or a residential zoning district.
- d. 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 Communications Antenna or \$1,000, whichever is less. Such permit fees may be amended by resolution from time to time.

E. Communications Antennae That Do Not Fall Under the Wireless Broadband Collocation Act

(1) In addition to the regulations enumerated in Section 324(B)(28)(C)(1), the following regulations shall apply to Communications Antennae that do not fall under the Pennsylvania Wireless Broadband Collocation Act:

- a. Prohibited on certain structures. No Communications Antenna shall be located on Single-Family Detached Dwellings, Two-Family Semidetached Dwellings, Two-Family Detached Dwellings or Single-Family Attached Dwellings.
- b. 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 Communications Antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these Communications Antenna provisions. The Applicant and/or owner of the Communications Antenna shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- 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 Communications Antenna, as well as related inspection, monitoring and all other related costs. Such permit fees may be amended by resolution from time to time.
- d. Requirement to Collocate. Communications Antennae shall be collocated on existing Wireless Support Structures subject to the following conditions:
 - (1) The total height of any Wireless Support Structure and mounted Communications Antenna shall not exceed twenty (20) feet above the maximum height of the existing structure.

(2) In accordance with industry standards, all Communications Antenna Applicants must submit documentation to the Township justifying the total height of the Communications Antenna. Such documentation shall be analyzed in the context of such justification on an individual basis.

(3) If the Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district, and landscaping shall be required to screen as much of the equipment building as possible. A planting screen of high intensity in accordance with the provisions of Section 405(I) shall surround the site.

e. Security fence. A security fence with a minimum height of eight (8) feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building, or any structure housing Related Equipment, shall not interfere with the parking or vehicular circulations on the site for the principal use.

f. Non-commercial usage exemption. Township residents utilizing satellite dishes and antennae for the purpose of maintaining television, phone, radio and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the Zoning Ordinance. Amateur radio operators are exempt from the regulations enumerated in this Section of the ordinance.

g. Design regulations. Communications Antennae 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 Applicant shall be Context Sensitive and shall be subject to the approval of the Township.

h. Inspection. The Township reserves the right to inspect any Communications Antenna to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Communications Antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.

F. Communications Antennae located in the Public Street ROW.

(1) In addition to the regulations enumerated in Section 324(B)(28)(C)(1), the following regulations shall apply to Communications Antennae located in the Public Street ROW:

a. Collocation and placement on existing infrastructure. Communications Antennae in the Public Street ROW shall be collocated on existing infrastructure which has been previously approved as wireless support structures, such as existing utility

poles, traffic signals or light poles. If collocation is not technologically feasible, the Applicant, with the Township's approval, shall locate its Communications Antennae on existing infrastructure that does not already act as a Wireless Support Structure.

- b. Special exception approval required. Any Applicant proposing the construction of a new Communications Antenna, or modification of an existing Communications Antenna, located within the Public Street ROW, shall first obtain special exception authorization from the Board. New constructions, modifications, and replacements that fall under the WBCA or the applicable provisions of the FCC's October 2014 Report and Order, shall be not be subject to the special exception process. The special exception application, and accompanying documentation, shall demonstrate that the proposed facility complies with all applicable provisions in the Township of Spring Zoning Ordinance.
- c. Design requirements:
 - (1) Communications Antenna installations and Related Equipment located above the surface grade in the Public Street ROW including, but not limited to, those on streetlights, traffic signals and 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.
 - (2) Communications Antennae and Related Equipment shall be treated with Stealth Technology, which shall be Context Sensitive, by the Communications Antenna owner or Applicant to match the Wireless Support Structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- d. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communications Antennae in the Public Street ROW based on public safety, traffic management, physical burden on the Public Street 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.
- e. Equipment location. Communications Antennae 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 Public Street ROW as determined by the Township. In addition:

- (1) Related Equipment located within the Public Street ROW but not attached to the support structure shall be placed underground and shall have no components that either protrude onto the curb, or obstruct the sidewalk.
 - (2) Ground-mounted Related Equipment that cannot be placed underground shall be located outside of the Public Street ROW and shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Board. In such cases, the Applicant shall present documentation to the Township that the property owner has granted an easement for the placement of the proposed equipment on the owner's property.
 - (3) Ground-mounted Related Equipment shall not be installed above ground directly in front of a residential structure.
 - (4) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Board.
 - (5) Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner.
 - (6) Any proposed underground vault related to Communications Antennae shall be reviewed and is subject to approval by the Township.
- f. 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, the owner of a Communications Antenna in the Public Street ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Communications Antenna when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (1) The construction, repair, maintenance or installation of any Township or other public improvement in the Public Street ROW;
 - (2) The operations of the Township or other governmental entity in the Public Street ROW;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An Emergency as determined by the Township.

(29) Communications Towers

- A. Purposes and Findings of Fact. See Section 324(B)(28)(A), above.
- B. Definitions. See Section 324(B)(28)(B), above.
- C. General and Specific Requirements for All Communications Towers.

(1) The following regulations shall apply to all Communications Towers.

- a. Standard of care. Any Communications Towers 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 Pennsylvania Uniform Construction Code, American National Standards Institute (ANSI) Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. At all times, Communications Towers shall 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. Permitted by special exception in certain zoning districts pursuant to regulations. Communications Towers are permitted by special exception pursuant to this zoning ordinance within the following districts, so long as they comply with all of the terms and conditions of this Zoning Ordinance:
 - (1) Rural Holding Area (RHA) District
 - (2) Rural Conservation (RC) District
 - (3) Rural/Suburban (RS) District
 - (4) Planned Highway Interchange (PHI) District
 - (5) Planned Highway Transitional (PHT) District
 - (6) Planned/Office Business (POB) District
 - (7) Planned Industry/Business (PIB) District
 - (8) Extractive Industry (EI) District
 - (9) Manufacturing and Industrial (MI) District
 - (10) Fuel Storage (FS) District
- c. Special exception process and required information. In addition to demonstrating compliance with all applicable provisions of the zoning ordinance, the applicant shall provide the following information:
 - (1) Notice. Included with the application for special exception approval for a Communications Tower the Applicant shall provide a list of property owners' names and mailing addresses for all owners of every property within five hundred (500) feet of the proposed facility.

- (2) Prior to the Board's consideration of a special exception application authorizing the construction and installation of a Communications Tower, it shall be incumbent upon the Applicant for such special exception approval to prove to the reasonable satisfaction of Board that the Applicant cannot adequately extend or infill its communications system by the use of equipment such as redoes, repeaters, Communications Antennae, and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The Applicant shall further demonstrate that the proposed Communications Tower must be located where it is proposed in order to serve the Applicant's service area and that no other viable alternative location exists.
 - (3) The special exception application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the Applicant, the power in watts at which the Applicant transmits, and any relevant related tests conducted by the Applicant in determining the need for the proposed site and installation.
 - (4) The special exception application shall be accompanied by documentation demonstrating that the proposed Communications Tower complies with all state and federal laws and regulations concerning aviation safety.
 - (5) Where the Communications Tower is located on a property with another principal use, the Applicant shall present documentation to the Board that the owner of the property has granted an easement for the proposed Communications Tower and that adequate vehicular access will be provided to the facility.
 - (6) The special exception application shall be accompanied by documentation demonstrating that the proposed Communications Tower complies with all applicable provisions in this section.
- d. Engineer inspection. Prior to the Board's issuance of special exception approval authorizing construction and erection of a Communications Tower, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the proposed Communications Tower's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the special exception proceedings before the Board, or at a minimum, be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.

- e. Visual appearance. Communications Towers shall employ Stealth Technology, which shall be Context Sensitive and may include the tower portion to be painted silver, or another color approved by the Board, or to have a galvanized finish. All Communications Towers and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district and/or surrounding area 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 construction principles, practices and techniques. Any utilities extending to the Communications Tower shall be placed underground.

- f. Collocation and siting. An application for a new Communications Tower shall demonstrate that the proposed Communications Antenna and Related Equipment cannot be collocated or accommodated on an existing or approved structure or building. The Board may deny an application to construct a new Communications Tower if the Applicant has not made a good faith effort to mount the Communications Antenna on an existing structure. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter ($\frac{1}{4}$) of a mile radius of the site proposed, sought permission to install a Communications Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - (1) 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.
 - (2) 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.
 - (3) 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.
 - (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

- g. Permit required for modifications. To the extent permissible under applicable state and federal law, any Applicant proposing the modification of an existing Communications Tower, which increases the overall height of such Wireless

Support Structure, shall first obtain a building permit from the Township. Non-routine modifications shall be prohibited without such permit.

- h. Gap in coverage or capacity. An Applicant for a Communications Tower must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of Communications Tower being proposed is the least intrusive means by which to fill that gap. The existence or non-existence of a gap in wireless coverage or capacity shall be a factor in the Board's decision on an application for approval of Communications Tower.
- i. Additional Communications Antennae. As a condition of approval for all Communications Towers, the Applicant shall provide the Township with a written commitment that it will allow other service providers to collocate Communications Antennae on Communications Towers where technologically and economically feasible. To the extent permissible under federal and state law, the owner of a Communications Tower shall not install any additional Communications Antennae without obtaining the prior written approval of the Township.
- j. Wind. All Communications Tower structures shall be designed to withstand the effects of wind gusts of at least one hundred (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 Communications Tower shall be designed at the minimum functional height. The maximum height of any new Communications Tower outside the Public Street ROW shall be one hundred seventy-five (175) feet. Communications Towers in the Public Street ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two (2) block radius of the proposed facility. No 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 Applicant shall demonstrate that the proposed Communications Tower is the minimum height necessary for its service area.
- l. Related Equipment. Either a one single-story wireless communications equipment building not exceeding one hundred fifty (150) square feet in area, or up to five metal boxes placed on a concrete pad not exceeding ten (10) feet by fifteen (15) feet in area housing the receiving and transmitting equipment, may be located on the site for each unrelated company sharing space on the Communications Tower.

- m. Public safety communications and other communications services. No Communications Tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties. Communications Towers shall be designed and constructed to accommodate the future addition of municipal communications facilities. Prior to issuance of a building permit the applicant shall demonstrate compliance with this requirement and shall describe any necessary steps for future addition of municipal communications facilities.
- n. Maintenance. The following maintenance requirements shall apply:
 - (1) Any Communications Tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Maintenance shall be performed to ensure the upkeep of the Communications Tower in order to promote the safety and security of the Township's residents, and utilize the best available technology for preventing failures and accidents. At a minimum such maintenance shall be performed at such frequencies and in accordance with the recommendations of the manufacturer(s) of the Communications Tower and Related Equipment.
- o. Radio frequency emissions. A Communications Tower shall not, by itself or in conjunction with other Communications Towers or Communications Antennae, 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. No Communications Tower (either inside or outside the Public Street ROW) may be located upon any property, or on a building, structure, or within one-hundred (100) feet of such property, building or structure, that is listed on the National or Pennsylvania Registers of Historic Places, listed by the Pennsylvania Historical and Museum Commission, included in the list of historic buildings in the Township's Comprehensive Plan , or that is deemed by the Township to be local historic significance.
- q. Signs. All Communications Towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the Communications Tower shall be those required by the FCC, or any other federal or state agency.

- r. Lighting. No Communications Tower shall be artificially lighted, except as required by law. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Automatic lighting is prohibited and all lighting must be controlled manually by an on-site switch. The Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Manager.
- s. Noise. Communications Towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- t. Aviation safety. Communications Towers shall comply with all federal and state laws and regulations concerning aviation safety.
- u. Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the Communications Tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The Applicant and/or owner of the Communications Tower shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- v. Timing of approval. Within thirty (30) calendar days of the date that an application for a Communications Tower is filed with the Township, the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within one hundred fifty (150) calendar days of the receipt of a fully completed application for the approval of a Communications Tower, the Township shall act upon such application and advise the Applicant in writing of its decision. This time period may be extended if mutually agreed upon by the Applicant and Township. If additional information was requested by the Township to complete an application, the time required by the Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.
- w. Nonconforming towers. Nonconforming Communications Towers, which at the effective date of this Chapter or subsequent amendments thereto become nonconforming, and are hereafter damaged, destroyed or partially destroyed by fire, explosion or by any means to an extent of seventy-five percent (75%) or more of the market value thereof immediately prior to such damage or destruction, shall not be repaired or restored to a nonconforming status, but

shall be reconstructed and used only in conformity with the provisions of this Chapter

x. Removal.

(1) Prior to the issuance of a building permit for a Communications Tower the owner or operator shall post security in a form acceptable to the Township in a sufficient amount to cover the facility removal and site cleanup prior to the issuance of any permits to construct or use said facility. Exemption: a commercial communications tower or antenna necessary for and clearly used for emergency communications by a police department, fire company, emergency medical service and other similar public safety organizations is exempt from the requirements of this Section.

(2) In the event that use of a Communications Tower is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned Communications Towers, or portions of Communications Towers, shall be removed as follows:

(a) All unused or abandoned Communications Towers and Related Equipment shall be removed within sixty (60) days of the cessation of operations at the site unless a time extension is approved by the Township.

(b) If the Communications Tower and/or Related Equipment is not removed within sixty (60) days of the cessation of operations at a site, or within any longer period approved by the Township, the financial security may be utilized by the Township to remove the Communications Tower and/or Related Equipment. In this event, the Township shall provide written notice of such intended action to the Applicant and, after the expiration of thirty (30) days, the Communications Tower or Related Equipment may be removed by the Township. Furthermore, the Township reserves the right to the salvage value of any removed Communications Tower and/or Related Equipment, if such Communications Tower and/or Related Equipment are not removed by the owner within the timeframes enumerated in this Chapter.

(c) Any unused portions of Communications Towers, including antennae, shall be removed within sixty (60) days of the time of cessation of operations. The Township must approve all replacements of portions of a Communications Tower previously removed.

- y. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Communications Tower, as well as related inspection, monitoring, and related costs. Such permit fees may be amended by resolution from time to time.
- z. FCC license. Each person that owns or operates a Communications Tower over forty (40) feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- aa. Insurance. Each person that owns or operates a Communications Tower greater than forty (40) feet in height shall provide the Township with a certificate of insurance naming the Township as an additional insured, and 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 Communications Tower. Each person that owns or operates a Communications Tower forty (40) feet or less in height shall provide the Township with a certificate of insurance naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$3,000,000 per occurrence and property damage coverage in the minimum amount of \$3,000,000 per occurrence covering each Communications Tower.
- bb. Indemnification. Each person that owns or operates a Communications Tower shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees (individually and/or collectively the "Indemnities"), arising out of, but not limited to, the review, approval, permitting, construction, installation, operation, maintenance or removal of the Communications Tower. Each person that owns or operates a Communications Tower shall defend any actions or proceedings against the Indemnities in which it is claimed that personal injury, including death, or property damage was caused by the review, approval, permitting, construction, installation, operation, maintenance or removal of the Communications Tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification. Prior to the issuance of a building permit for such facilities the applicant shall be required to execute an indemnification agreement with the Township.

- cc. Engineer signature. All plans and drawings for a Communications Tower shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- dd. Financial security. Prior to receipt of a zoning permit for the construction or placement of a Communications Tower, the Applicant shall provide to the Township financial security sufficient to guarantee the construction of the Communications Tower. Said financial security shall remain in place until the Communications Tower is fully constructed.
- ee. All applications for approval of Communications Towers shall include written documentation from the FCC, FAA and Commonwealth of Pennsylvania Bureau of Aviation that the Communications Tower complies with all applicable regulations, or is exempt from such regulations.

D. Communications Towers Outside the Public Street ROW

(1) In addition to the regulations enumerated in Section 324(B)(29)(C)(1), the following regulations shall apply to Communications Towers located outside the Public Street ROW:

a. Development regulations.

(1) Communications Towers shall not be located in, or within seventy-five (75) feet of an area in which all utilities are located underground.

(2) Communications Towers are permitted by special exception outside the Public Street ROW, subject to the prohibitions contained herein, in the following zoning districts:

- (a) Rural Holding Area (RHA) District
- (b) Rural Conservation (RC) District
- (c) Rural/Suburban (RS) District
- (d) Planned Highway Interchange (PHI) District
- (e) Planned Highway Transitional (PHT) District
- (f) Planned Office/Business (POB) District
- (g) Planned Industry/Business (PIB) District
- (h) Extractive Industry (EI) District
- (i) Manufacturing and Industrial (MI) District
- (j) Fuel Storage (FS) District

(3) Sole use on a lot. A Communications Tower shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in the Township Zoning Code.

- (4) Combined with another use. A Communications Tower may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - (a) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the Communications Tower.
 - (b) Minimum lot area. The minimum lot area shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Communications Tower and guy wires, the equipment building, security fence, and buffer planting if the proposed Communications Towers is greater than forty (40) feet in height. A Communications Tower may also occupy a leased parcel meeting the minimum lot area for the applicable zoning district, however, in no case will the size of the leased parcel be required to be larger than one (1) acre.
 - (c) Minimum setbacks. The minimum distance between the base of a Communications Tower and any adjoining property line or street right-of-way line shall be equal to one hundred percent (100%) of the height of the Communications Tower. The underlying lot must be large enough to accommodate Related Equipment, storm water runoff mechanisms, and all other features typically found within the immediate area of a Communications Tower.

b. Design regulations.

- (1) The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be Context Sensitive and shall be subject to the approval of the Board.
- (2) To the extent permissible by law, any height extensions to an existing Communications Tower shall require prior approval of the Township.
- (3) Any proposed Communications Tower shall be designed structurally, electrically, and in all respects, to accommodate both the Applicant's Communications Antennae and comparable Communications Antennae, for the maximum amount of future users based on the size of the proposed Communications Tower.
- (4) Any Communications Tower over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

c. Surrounding environs.

- (1) The Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Communications Tower shall be preserved to the maximum extent possible.
- (2) The 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 Communications Tower, and anchors for guy wires, if used.

d. Fence/screen.

- (1) A security fence with a minimum height of eight (8) feet shall completely surround any Communications Tower greater than forty (40) feet in height, as well as guy wires, or any building housing Related Equipment.
- (2) The Applicant shall provide a buffer yard and planning screen of high intensity in accordance with the provisions of Section 405(I).

e. Related Equipment.

- (1) Ground-mounted Related Equipment associated with, or connected to, a Communications Tower shall be placed underground or screened from public view using Stealth Technologies, as described herein.
- (2) All Related Equipment shall be architecturally designed to blend into the environment in which it is 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 Communications Towers. The access road shall be a dust-free all-weather surface for its entire length. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the Communications Tower owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

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

h. Inspection. The Township reserves the right to inspect any Communications Tower to ensure compliance with the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its

agents shall have the authority to enter the property upon which a Communications Tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

E. Communications Towers Inside the Public Street ROW

(1) In addition to the regulations enumerated in Section 324(B)(29)(C)(1), the following regulations shall apply to Communications Towers located in the Public Rights-of-Way.

a. Location and development standards.

(1) Communications Towers in the Public Street ROW shall consist only of monopoles and shall not exceed a height comparable to the average height of utility poles or electrical poles within a two (2) block radius of the proposed facility. Communications Towers are prohibited in areas in which all utilities are located underground.

(2) Communications Towers shall not be located in the front façade area of any structure.

(3) Communications Towers shall be permitted by special exception within the Public Street ROW along all streets classified as either Expressways or Arterial Streets on the Township of Spring Street Classification Map, regardless of the underlying zoning district.

b. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communications Towers in the Public Street ROW based on public safety, traffic management, physical burden on the Public Street 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. Communications Towers and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the Public Street ROW as determined by the Township. In addition:

(1) Related Equipment located within the Public Street ROW but not attached to the support structure shall be placed underground and shall have no components that either protrude onto the curb, or obstruct the sidewalk.

(2) Ground-mounted Related Equipment that cannot be placed underground shall be located outside of the Public Street ROW and shall be screened, to the fullest extent possible, through the use of landscaping or other

decorative features to the satisfaction of the Board. In such cases, the Communications Tower owner shall present documentation to the Township that the property owner has granted an easement for the placement of the proposed equipment on the owner's property. If the Related Equipment is to be located within a building, it shall be a one single-story wireless communications equipment building not exceeding one hundred fifty (150) square feet in area and shall meet the minimum setback requirements of the underlying zoning district.

- (3) Ground-mounted Related Equipment shall not be installed above ground directly in front of a residential structure.
- (4) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Board.
- (5) Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner.
- (6) Any underground vaults related to Communications Towers shall be reviewed and approved by the Board.

d. Design regulations.

- (1) The Communications Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be Context Sensitive and shall be subject to the approval of the Board.
- (2) To the extent permissible under state and federal law, any height extensions to an existing Communications Tower shall require prior approval of the Township, and shall not violate the provisions described herein.
- (3) Any proposed Communications Towers shall be designed structurally, electrically, and in all respects to accommodate both the Applicant's Communications Antennae and comparable Communications Antennae the maximum amount of future users based on the size of the proposed Communications Tower.

- e. Relocation or removal of facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a Communications Tower in the Public Street ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Communications Tower when the Township, consistent with its police powers and

applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- (1) The construction, repair, maintenance or installation of any Township or other public improvement in the Public Street ROW;
 - (2) The operations of the Township or other governmental entity in the Public Street ROW;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An emergency as determined by the Township.
- f. Reimbursement for Public Street ROW use. In addition to permit fees as described in this section, every Communications Tower in the Public Street ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the Public Street ROW. Such compensation for Public Street ROW use shall be directly related to the Township's actual Public Street ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other Public Street ROW management activities by the Township. The owner of each Communications Tower shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

SECTION III. Miscellaneous

- A. Police powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.
- B. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
- C. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Township of Spring.

ENACTED AND ORDAINED this 24th day of October, 2016.

ATTEST:

SPRING TOWNSHIP BOARD:


Secretary


Board (Vice) Chairman

MUNICIPAL CERTIFICATION

I, Sheryl Rowan, (Assistant) Secretary of the TOWNSHIP OF SPRING, BERKS COUNTY, PENNSYLVANIA, do hereby certify that the foregoing Ordinance 424 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in the Township of Spring, on September 29, 2016 and October 6, 2016 and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on October 24, 2016.

(SEAL)



(Assistant) Secretary