

**BOROUGH OF WEST VIEW  
ALLEGHENY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 1484**

**AN ORDINANCE OF THE BOROUGH OF WEST VIEW, ALLEGHENY COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF WEST VIEW BOROUGH, AS CODIFIED AT CHAPTER 290 OF THE WEST VIEW BOROUGH CODE; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES AND NON-TOWER WIRELESS COMMUNICATION FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; AND PROVIDING FOR AN EFFECTIVE DATE.**

NOW THEREFORE, be it, and it is hereby ORDAINED by the Borough Council of the Borough of West View, Allegheny County, Commonwealth of Pennsylvania, and it is hereby ENACTED and ORDAINED by authority of same as follows:

**SECTION I. Short Title.**

This Ordinance shall be known as the “West View Borough Wireless Communications Facilities Ordinance.”

**SECTION II. Purposes and Findings of Fact.**

- A. The purpose of this Ordinance is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in West View Borough. While the Borough recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this Ordinance, the Borough intends to:
  - a. Promote the health, safety, and welfare of Borough residents and businesses with respect to wireless communications facilities;
  - 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 Borough 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 in the Borough, including facilities both inside and outside the public rights-of-way;
- d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable wi-fi and other wireless communications facilities;
- e. Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
- f. Protect Borough residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
- g. Update the Borough's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

### **SECTION III. Definitions.**

Chapter 290, Section 9 of the West View Borough Zoning Ordinance is hereby amended by removing the following definitions "Wireless Communications Antenna"; "Wireless Communications Equipment Building"; and "Wireless Communication Tower." Chapter 290, Section 9 is further amended to include the following definitions to the "Definitions" section:

1. *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 defined below.
2. *Co-location*—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.
3. *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.
4. *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.

5. *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.
6. *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.
7. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—all non-tower wireless communications facilities, 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.
8. *Related Equipment*— Any piece of equipment related to, incident 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.
9. *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.
10. *Substantially 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.
11. *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 WCFs.
12. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
13. *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 services.

14. *Wireless Communications Facility Applicant (WCF Applicant)*—any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Borough owned land or property.
15. *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 Borough.

#### **SECTION IV. Repealer**

The following terms, conditions and provisions of Section 290-20(I) of the West View Borough Zoning Code are and hereby REPEALED and REPLACED by provisions set forth under Sections V through XI of this Ordinance.

#### **SECTION V. General Requirements for All Non-Tower Wireless Communications Facilities**

- A. The following regulations shall apply to all Non-Tower Wireless Communications Facilities located within the Borough, including those inside the public rights-of-way:
  1. Permitted in All Zones Subject to Regulations. Non-Tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to applicable permitting by the Borough.
  2. Prohibited on Certain Structures. Commercial Non-Tower WCFs shall not be located on single-family detached residences, single-family attached residences, or any accessory residential structure.
  3. 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. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.
  4. Wind. All Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E, as amended).

5. Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
6. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
7. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
8. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - a. 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 Borough.
  - b. 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 Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
9. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the Borough's ninety (90) day review period.
10. Insurance. Each Person that owns or operates a Non-Tower WCF shall provide the Borough 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.
11. Indemnification. Each Person that owns or operates a Non-Tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, 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 Borough 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.

12. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- a. The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
- b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
- c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

B. In addition to the regulations in Section V of this Ordinance, the following additional regulations shall apply to all Non-Tower Wireless Communications Facilities, such as Antennae, that do not Substantially Change the physical dimensions of the Wireless Support Structure to which they are attached:

1. Permit Required. Applicants proposing the modification of an existing Tower-Based WCF shall obtain a Building Permit from the Borough zoning office. In order to be considered for such, the applicant must submit a permit application to the Borough Zoning Office.
2. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a Non-Tower WCF or \$1,000, whichever is less.

C. In addition to the regulations in Section V of this Ordinance, the following additional regulations shall apply to all Non-Tower Wireless Communications Facilities that Substantially Change the Wireless Support Structure to which they are attached:

1. Permit Required. Any applicant proposing the construction of a new Non-Tower WCF, or the modification of an existing Non-Tower WCF, shall first obtain a Building Permit from the Borough Zoning Office. New construction and modifications shall be prohibited without such a permit. After receipt of the Permit application, the Borough Zoning Officer shall determine whether zoning relief is necessary under the Borough Code.
2. Historic Buildings. No Non-Tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to

be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Borough, or has been designated by the Borough to be of historical significance.

3. Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
5. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a Non-Tower WCF, as well as related inspection, monitoring and related costs.

## **SECTION VI. Non-Tower Wireless Facilities Outside the Rights-of-Way**

The following additional regulations shall apply to Non-Tower Wireless Communications Facilities located outside the Rights-of-Way that Substantially Change the Wireless Support Structure to which they are attached:

1. Development Regulations. Non-Tower WCFs shall be co-located on existing structures, such as existing buildings or Tower-Based WCFs, if possible, subject to the following conditions:
  - a. Such WCF does not exceed the lesser of a total maximum height of fifteen (15) feet or the maximum height permitted in the underlying zoning district. If the planned Non-Tower WCF exceeds this height specification, the WCF applicant shall obtain a variance.
  - b. 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 and commercial accessory buildings.
  - c. A security fence of not less than six (6) feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
2. Special Exception. If co-location of the Non-Tower WCF on an existing Support Structure is not technologically feasible, the Applicant shall apply to the Zoning Hearing Board for a Special Exception.

3. Design Regulations.

- a. Non-Tower WCFs shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Borough.
- b. The total height of any support structure and mounted WCF shall not exceed the maximum height permitted in the underlying zoning district, unless the applicant obtains a variance.
- c. In accordance with industry standards, all Non-Tower WCF applicants must submit documentation to the Borough justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- d. Non-Commercial Usage Exemption. Borough citizens utilizing satellite dishes and Antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the Siting and Design Regulations enumerated in this Ordinance.

4. Removal, Replacement, Modification.

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

5. Reservation of Rights. In accordance with applicable law, the Borough 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.

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

**SECTION VII. Non-Tower Wireless Facilities in the Rights-of-Way**

A. The following additional regulations shall apply to all Non-Tower Wireless Communications Facilities located in the Rights-of-Way:

1. Co-location. Non-Tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. Collocated facilities shall be permitted by right. If co-location is not technologically feasible, the Applicant shall locate its Non-Tower WCFs on existing poles or structures that do not already act as Support Structures.
2. Special Exception. Applicants that propose to locate Non-Tower WCFs, such as Antennae, on existing structures that do not already support a WCF, shall apply to the Borough Zoning Hearing Board for a Special Exception.
3. Design Requirements:
  - a. WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
  - b. Antennae and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
4. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.
5. Equipment Location. Non-Tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:
  - a. In no case shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within an easement extending onto a privately-owned lot;
  - b. Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
  - c. Any graffiti on the WCF or accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.

- d. Any proposed underground vault related to Non-Tower WCFs shall be reviewed and approved by the Borough.
6. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- a. The construction, repair, maintenance or installation of any Borough or other public improvement in the Right-of-Way;
  - b. The operations of the Borough or other governmental entity in the Right-of-Way;
  - c. Vacation of a street or road or the release of a utility easement; or
  - d. An Emergency as determined by the Borough.
6. Reservation of Rights. In accordance with applicable law, the Borough 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.

**SECTION VIII. General Requirements for All Tower-Based Wireless Communications Facilities.**

The following regulations shall apply to all Tower-Based Wireless Communications Facilities in the Borough:

1. 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 Borough.
2. Notice. Upon submission of an application for a Tower-Based WCF, the applicant shall mail the applicant shall mail notice to all owners of every property within two hundred fifty (250) feet of the proposed facility. The applicant shall provide proof of the notification to the Borough.

3. Permitted by Special Exception. Any applicant proposing the construction of a new Tower-Based Wireless Communications Facility shall present testimony and evidence to the Zoning Hearing Board that the proposed facility meets the criteria set forth in this Ordinance. Tower-Based WCFs shall only be permitted by special exception.
  
4. Co-Location and Siting. An application for a new Tower-Based WCF shall not be approved unless the Borough finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building, or on Borough property. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter (¼) 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:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
  
5. Permit Required for Modifications. Any applicant proposing the modification of an existing Tower-Based WCF, which increases the overall height of such WCF, shall first obtain a Zoning Permit from the Borough zoning office. Non-routine modifications shall be prohibited without a Zoning Permit.
  
6. Gap in Coverage. An applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Borough's decision on an application for approval of Tower-Based WCFs.
  
7. Additional Antennae. As a condition of approval for all Tower-Based WCFs, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate Antennae on Tower-Based WCFs where technically and economically feasible. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Borough.

8. Wind. Any Tower-Based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E, as amended).
9. Siting. No Tower-Based WCF shall be sited or constructed within 1,500 feet of any other Tower-Based WCF in the Borough.
10. Height. Any Tower-Based WCF shall be designed at the minimum functional height. All Tower-Based WCF applicants must submit documentation to the Borough justifying the total height of the structure. The maximum total height of any Tower-Based WCF, which is not located in the public ROW, shall not exceed one hundred (100) feet, as measured vertically from the ground level to the highest point on the structure, including Antennae and subsequent alterations. Equipment buildings, cabinets, and accessory structures shall not exceed fifteen (15) feet in height.
11. Related Equipment. A telecommunication equipment building, or any other structure associated with a Tower-Based WCF, shall meet the height and setback requirements for principal buildings in the zoning district in which the building is located. When a zoning district contains more than one set of setback requirements, the largest setback shall apply.
12. 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.
13. Maintenance. The following maintenance requirements shall apply:
  - a. Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
  - c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
14. Radio Frequency Emissions. No Tower-Based WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
15. Historic Buildings or Districts. No Tower-Based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Borough.

16. 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. Absent controlling FAA or FCC regulations, no additional signage shall be permitted on the Tower-Based WCF.
17. Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. 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.
18. Noise. Tower-Based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
19. Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
20. Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
21. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Tower-Based WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Tower-Based WCF and the Borough shall advise the applicant in writing of its decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.
22. Non-Conforming Uses. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Ordinance.
23. Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- a. All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Borough.
  - b. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
  - c. Any unused portions of Tower-Based WCFs, including Antennae, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a Tower-Based WCF previously removed.
24. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a Tower-Based WCF, as well as related inspection, monitoring and related costs.
25. FCC License. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
26. Reservation of Rights. In accordance with applicable law, the Borough 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.
27. Insurance. Each Person that owns or operates a Tower-Based WCF greater than forty (40) feet in height shall provide the Borough 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 (40) feet or less in height shall provide the Borough 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.
28. Indemnification. Each Person that owns or operates a Tower-Based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, 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 Borough 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.

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

30. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a Tower-Based WCF, the applicant shall provide to the Borough financial security sufficient to guarantee the removal of the Tower-Based WCF. Said financial security shall remain in place until the Tower-Based WCF is removed.

## **SECTION IX. Tower-Based Facilities Outside the Rights-of-Way**

A. The following additional regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Rights-of-Way:

### 1. Development Regulations:

a. Location. No Tower-Based WCF shall be located in an area in which utilities are underground.

i. The following regulations shall apply to Tower-Based WCFs greater than forty (40) feet in height:

1. Such Tower-Based WCFs may be located in the following zoning districts, subject to Section IX(A)(1)(b)(2) of this Ordinance:

a. R-1 Residential District.

b. R-3 Residential District.

c. C-1 Commercial District.

2. Such Tower-Based WCFs shall not be located in, or within one hundred fifty (150) feet of, any area in which utilities are underground.

ii. In accordance with the provisions listed in Section X of this Ordinance, the following regulations shall apply to Tower-Based WCFs forty (40) feet or shorter in height:

1. Such Tower-Based WCFs shall be permitted along Rochester Road.
  2. Such Tower-Based WCFs shall not be located in the front façade zone of any structure.
- b. Site Requirements. A Tower-Based WCF may be located as permitted in the district regulations, subject to all of the conditions listed in this Ordinance.
- c. Sole Use on a Lot. A Tower-Based WCF shall be not permitted as a sole use on a lot.
- d. Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
- i. The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications facility.
  - ii. Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting if the proposed WCF is greater than forty (40) feet in height.
  - iii. Minimum Setbacks. The foundation and base of any Tower-Based WCF over forty (40) feet in height shall be set back from property lines by the largest of the following:
    1. The minimum set back in the underlying zoning district.
    2. Fifty (50) feet from other property lines.

2. Design Regulations:

- a. The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Borough.
- b. To the extent any height extensions to an existing Tower-Based WCF shall require prior approval of the Borough.
- c. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's Antennae and comparable Antennae for future users.

- d. Any Tower-Based WCF over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

3. Surrounding Environs:

- a. The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- b. The WCF applicant shall submit a soil report to the Borough complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

4. Fence/Screen:

- a. A security fence having a minimum height of six (6) feet shall completely surround any Tower-Based WCF greater than forty (40) feet in height, as well as guy wires, or any building housing WCF equipment.
- b. Landscaping shall be installed to screen and buffer the tower and any ground level features, such as an equipment building, from adjacent properties, and shall be subject to the approval of the Borough.

5. Accessory Equipment:

- a. Ground-mounted equipment associated to, or connected with, a Tower-Based WCF shall be underground or screened from public view using Stealth Technologies, as described above.
- b. All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

6. 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 construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Borough that the property owner has granted an easement for the proposed facility.

7. Parking. For each Tower-Based WCF greater than forty (40) feet in height, there shall be two off-street parking spaces, or one space per employee, whichever is greater.

8. Inspection. The Borough reserves the right to inspect any Tower-Based WCF to ensure compliance with the provisions of this Ordinance and any other provisions found within the Borough Code or state or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

## **SECTION X. Tower-Based Facilities in the Rights-of-Way**

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

1. Prohibited in Underground Utility Areas.
  - a. Tower-Based WCFs forty (40) feet or shorter in height shall only be permitted along Rochester Road.
  - b. Such Tower-Based WCFs shall not be located in the front façade zone of any structure.
2. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.
3. Equipment Location. Tower-Based WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:
  - a. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
  - b. Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
  - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
  - d. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.

- e. Any underground vaults related to Tower-Based WCFs shall be reviewed and approved by the Borough.

4. Design Regulations.

- a. The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Borough.
- b. Tower-Based WCFs in the public ROW shall not exceed forty (40) feet in height.
- c. Any height extensions to an existing Tower-Based WCF shall require prior approval of the Borough, and shall not increase the overall height of the Tower-Based WCF to more than forty (40) feet.
- d. 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.

5. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of 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 Borough, 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:

- a. The construction, repair, maintenance or installation of any Borough or other public improvement in the Right-of-Way;
- b. The operations of the Borough or other governmental entity in the Right-of-Way;
- c. Vacation of a street or road or the release of a utility easement; or
- d. An Emergency as determined by the Borough.

**SECTION XI. Miscellaneous**

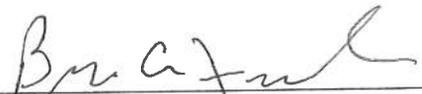
- a. Police Powers. The Borough, by granting any permit or taking any other action pursuant to this Chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Borough under applicable federal, state and local laws and regulations.
- b. Severability. If any section, subsection, 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.

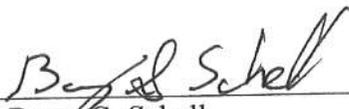
c. Effective Date. This Ordinance shall become effective thirty (30) days after enactment by the West View Borough Council.

ORDAINED and ENACTED this 11<sup>th</sup> day of December, 2014

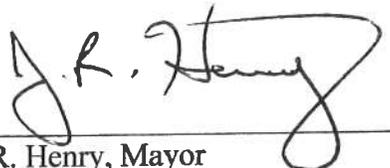
BOROUGH OF WEST VIEW

ATTEST:

BY:   
Chief of Police Bruce A. Fromlak  
Secretary/Manager

BY:   
Barry G. Schell  
President of Town Council

EXAMINED and APPROVED this 11<sup>th</sup> day of December 2014

BY:   
J. R. Henry, Mayor