

**BOROUGH OF SOUTH GREENSBURG
WESTMORELAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1-2021

AN ORDINANCE OF THE BOROUGH OF SOUTH GREENSBURG, WESTMORELAND COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF CHAPTER 163, ARTICLE 8 OF THE BOROUGH OF SOUTH GREENSBURG CODE; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES, NON-TOWER WIRELESS COMMUNICATIONS FACILITIES, AND SMALL WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby ORDAINED by the Council of the Borough of South Greensburg, Westmoreland County, Commonwealth of Pennsylvania (hereinafter, the "Borough"), and it is hereby ENACTED and ORDAINED by authority of same as follows:

SECTION I. Establishment of § 163-35, "Wireless Communications Facilities"

Chapter 163, Article 8 of the Borough of South Greensburg Code is hereby amended by adding a new section, § 163-35, entitled and provided for as follows:

I. Short Title.

This Ordinance shall be known as the "Borough of South Greensburg Wireless Communications Facilities Ordinance."

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 the Borough of South Greensburg. 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:
 - (1) Regulate the placement, construction and modification of Wireless Communication Facilities to protect the safety and welfare of the public;

- (2) 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;
- (3) 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;
- (4) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units and other wireless communications facilities;
- (5) Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
- (6) 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;
- (7) Ensure that wireless communications facilities will be removed in the event that such structures are abandoned or become obsolete and are no longer necessary; and
- (8) Update the Borough's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

III. Definitions.

- A. *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. An Antenna shall not include private residence-mounted satellite dishes or television antennae or amateur radio equipment including, without limitation, ham or citizen band radio antennae.
- B. *Borough*—Borough of South Greensburg, Westmoreland County, Commonwealth of Pennsylvania.
- C. *Collocation*—the mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure
- D. *Commercially Reasonable* – means terms and pricing that are reasonably consistent with similar wireless facility leases and agreements within a fifty (50) mile radius of the Borough.

- E. *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.
- F. *Eligible Facilities Request*—An application for modification of an existing wireless communications facility or base station that involves—(A) collocation of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.
- G. *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.
- H. *FCC*—Federal Communications Commission.
- I. *Front Façade Area*—the area of the public right-of-way directly in front of a structure, identified by drawing a perpendicular line from each corner of structure to the public rights-of-way.
- J. *Height Of A Tower-Based Wireless Communications Facility*—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.
- K. *Height of a Wireless Support Structure*—the vertical distance measured from the ground level, including any base pad, to the highest point on a communications tower, including communications antennas mounted on the tower and any other appurtenances.
- L. *Modification or Modify*—the improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.
- M. *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 and related equipment.
- N. *Persons*—individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania; provided that Person does not include or apply to the Borough or to any department or agency of the Borough.

- O. *Pole or Poles*—any freestanding structure located within the public rights-of-way, including but not limited to, utility poles, street lights, traffic lights and signage that may support, hold, or house Wireless Communications Facilities, Wireless Accessory Equipment, or Related Equipment.
- P. *Prior Approved Design*—a design for a Small Wireless Communications Facility that has been reviewed and deemed to be in accordance with the design requirements herein and approved for construction by the Borough.
- Q. *Professional Engineer (P.E.)*—an active, registered Professional Engineer (P.E.), licensed as such by the Commonwealth of Pennsylvania.
- R. *Replacement*—the replacement of existing wireless communications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.
- S. *Right-of-Way or ROW*—the surface of and space above and below any real property in the Borough in which the Borough has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Borough, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than Streets that are owned by the Borough. The phrase “in the Right(s)-of-Way” means in, on, over, along, above and/or under the Right(s)-of-Way.
- T. *Small Wireless Communications Facility (Small WCF)*—A wireless communications facility that meets the following criteria:
- (1) The structure on which antenna facilities are mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures, or
 - (iii) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
 - (2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and
 - (3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume;

- (4) The facilities do not require antenna structure registration under 47 CFR Part 17;
 - (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
 - (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).
- U. *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.
- V. *Substantially Changed or Substantial Change*—A modification to an existing wireless communications facility substantially changes the physical dimensions of a tower or base station if it meets any of the following criteria:
- A. For communication towers outside the public rights-of-way, it increases the height of the facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed 20 feet, whichever is greater; for communications towers in the rights-of-way, it increases the height of the facility by more than 10% or 10 feet, whichever is greater;
 - B. For communications towers outside the public rights-of-way, it protrudes from the edge of the tower by more than 20 feet, or more than the width of the tower structures at the level of the appurtenance, whichever is greater; for those communications towers in the public rights-of-way, it protrudes from the edge of the structure by more than six feet;
 - C. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 - D. It entails any excavation of deployment outside the current site of the communications tower; or
 - E. It does not comply with conditions associated with prior approval of construction or modification of the communications tower unless the noncompliance is due to an increase in height, increase in width, or addition of cabinets.

- W. *Tower*—a self-supporting lattice tower, guy tower, monopole, or any other pole, that is constructed primarily to support an antenna for receiving and/or transmitting a wireless signal.
- X. *Tower-Based Wireless Communications Facility (Tower-based WCF)*—a Tower and its supporting antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. Distributed antenna system hub facilities are considered to be Tower-Based WCFs.
- Y. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
- Z. *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.
- AA. *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 ROW or other Borough owned land or property.

IV. Regulations Applicable to All Tower-Based Wireless Communications Facilities.

- A. The following regulations shall apply to all Tower-Based Wireless Communications Facilities:
 - 1. Procedures.
 - (a) Any applicant proposing construction of a new Tower-Based WCF outside the public Rights-of-Way shall submit plans to the Borough for review by the Borough staff and Planning Commissions and for approval by the Borough Council in accordance with the requirements of the Borough of South Greensburg Code of Ordinances, Chapter 163, Article 8.
 - (b) The applicant shall prove that it is licensed by the FCC to operate a Tower-Based WCF and that the proposed Tower-Based WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
 - 2. Timing of Approval. 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, including an application fee in an amount specified by the Wireless Fee Schedule. If the Borough receives an application for a Tower-Based WCF and such application is not fully completed, then the Borough shall promptly notify the applicant that the application is not complete and the time for the approval of such

application shall not commence until a fully completed application is received by the Borough.

3. Application Fees. The Borough may assess appropriate and reasonable application fees in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs, subject to the limitations in this section, in amounts specified by the Wireless Fee Schedule.
4. Prohibited in Residential Districts. No Tower-Based WCF shall be located within a residential district or within two hundred (200) feet of a lot in residential use or a residential district boundary.
5. Prohibited in Special Districts. No Tower-Based WCF shall be located within a special district or within two hundred (200) feet of a lot in special use or a special district boundary.
6. Development Regulations. Tower-based wireless communications facilities shall be developed in accordance with the following requirements:
 - a. Permitted Subject to Regulations. Any Tower-Based WCF that is either not mounted on any existing structure or is more than 25 feet higher than the structure on which it is mounted is permitted in certain zoning districts as a conditional use, subject to the restrictions and conditions prescribed herein and subject to the prior written approval of the Borough. The Borough Council may grant a conditional use after review of the Planning Commission and a public hearing before the Council. An applicant for a Tower-Based WCF must establish the following:
 - (i) Coverage and Capacity. An applicant for a Tower-Based WCF must demonstrate that a gap in wireless coverage and capacity exists and that the type of WCF and siting being proposed is the least intrusive means by which to fill the gap in wireless coverage and capacity. 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.
 - (ii) Collocation. That there is not suitable space on existing wireless service facilities or other wireless service facility sites or on other sufficient tall structure where the intended wireless service facility can be accommodated and function as required by its construction permit or license without unreasonable modification.
 - (iii) Good Faith Effort. If the applicant proposes to build a tower (as opposed to mounting the antenna on an existing structure), said applicant is required to demonstrate that they contacted the owners of all structures within a one mile radius of the site proposed, asked for permission to install the antenna on those structures and was denied for reasons other than economic ones. This would include smokestacks, water towers, tall buildings, antenna support structures of other telecommunications companies, other communication towers (fire, police, etc.), and other tall structures. The Borough Council may deny any application to

construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.

(iv) Site Plan. An applicant for a Tower-Based WCF must submit a full site plan to the Borough Zoning Officer which shall include:

1. Written authorization from the property owner of the proposed Tower-Based WCF site that such facility may be sited on the property. Written authorization from the property owner consenting to the making of the application to the Borough for conditional use. Written acknowledgment from the property owner of being bound by this section, the conditions of any site plan approval authorized by the Borough, and all other requirements of the Borough Code.
2. A site plan that is drawn to scale and shows the following features: property boundaries; any tower guy wire anchors and other apparatus; existing and proposed structures; scaled elevation view; access road(s) location and surface material; parking area; fences; power source(s); location and content of (any or warning) signs; exterior lighting specifications; landscaping plan; land elevation contours; existing land uses surrounding the site; proposed transmission building and/or other accessory uses with details; elevations; and proposed use(s).
3. A written report including: information describing the tower height and design; a cross-section of the structure; engineering specifications detailing construction of tower, base and guy wire anchorage; information describing the proposed painting and lighting schemes; information describing the tower's capacity, including the number and type of antennas that it can accommodate; radio frequency coverage including scatter plot analysis and the input parameters for the scatter plot analysis; all tower structure information to be certified by a registered Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania; and wireless telecommunications data to be certified by an appropriate wireless telecommunications professional.
4. A written report, titled "Cost of Wireless Facilities Removal" certified by a registered Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania, detailing the total cost of removing and disposing of the tower, antenna, and related facilities.
5. All other uses ancillary to the Tower-Based WCF and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the Tower-Based WCF site unless otherwise permitted in the zoning district in which the Tower-Based WCF site is located.

6. Where the Tower-Based WCF is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement for the proposed facility and that vehicular access is provided to the facility.
 7. An inventory of its existing wireless communications facilities, including all Tower-Based, Non-Tower, and Small WCF, that are either sited within the Borough or within one-quarter (1/4) mile of the border thereof. Such inventory shall include specific information about the location, height, design, and use of each wireless communications facility. The Borough may share such information with other applicants applying for site plan approvals or special permit uses under § 360-24.1 or other organizations seeking to locate antennas within the Borough; provided, however, that the Borough is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 8. The need for additional buffer yard treatments shall be evaluated.
 9. Other information deemed to be necessary by the Borough to assess compliance with this section.
- b. Sole Use on a Lot. A Tower-Based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- c. Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
- (i) Existing Use. 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.
 - (iii) Minimum Setbacks. If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure), the minimum distance between the base of the support structure and any property line or right-of-way line shall be the largest of the following:
 - A. Fifty percent of antenna height in all zones except residential zones where the setback shall be 100% of antenna height.
 - B. The minimum front yard setback in the underlying zoning district.

C. Forty feet.

7. Collocation.

- a. 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.
 - b. Any applicant proposing construction of a new Tower-Based WCF outside the Rights-of-Way shall demonstrate to the satisfaction of the Borough Council, by written submission, that a good faith effort has been made to obtain permission to mount the Tower-Based WCF Antenna on an existing building or structure. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed Tower-Based WCF site be contacted and that the applicant certifies in writing to the Borough Council that one (1) or more of the following reasons for not selecting such structure apply:
 - i. The proposed WCF and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at reasonable cost;
 - ii. The proposed WCF and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at reasonable cost;
 - iii. Such existing structure does not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function; and/or
 - iv. A commercially reasonable agreement cannot be reached with the owner(s) of such structure.
8. 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.
9. Wind and Ice. Any Tower-Based WCF structures shall be designed to withstand the effects of wind and ice 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/TIA-222, as amended).

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. In no case shall a WCF exceed a maximum height of two hundred (200) feet.
11. 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.
12. 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.
 - d. The Borough reserves the authority to require the repainting of all Tower-Based Facilities where the painting of such facilities is not regularly maintained.
13. 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. The owner or operator of such Tower-Based WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Borough Secretary on an annual basis. A Tower-Based WCF generating radio frequency emissions in excess of the standards and regulations of the FCC shall be considered an Emergency. The Borough reserves the authority to revoke the permit of any Tower-Based WCF generating radio frequency emissions in excess of the standards and regulations of the FCC.
14. Historic Buildings or Districts. No Tower-Based WCF may be located on a building or structure that is listed on an historic register or is located in an historic district.
15. Underground District. A Tower-Based WCF shall not be located in, or within three hundred (300) feet of, an area in which utilities are required to be located underground.
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.

17. Lighting. Tower-Based WCF shall not 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. Inspection Report Requirements. No later than December of each odd-numbered year, the owner of the Tower-Based WCF shall have said WCF structure inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of Tower-Based WCFs and has demonstrated his/her expertise to the satisfaction of the Borough. At a minimum, this inspection shall be conducted in accordance with the Tower Inspection Class checklist provided in the Electronics Industries Association (EIA) Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures. A copy of said inspection report and certification of continued use shall be provided to the Borough by March 1 following the inspection. Any repairs advised by report shall be effected by the owner within sixty (60) calendar days after the report is filed with the Borough.
21. 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.
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 Antennas, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a Tower-Based WCF previously removed.
24. Siting. No tower-based wireless communications facility shall be located, in whole or in part, within the right-of-way.
25. Notice. Upon receipt of an application for a Tower-Based WCF, the Borough shall mail notice thereof to the owner or owners of every property zoned residential on the same street within one thousand (1,000) feet of the site of the proposed facility and of every property zoned residential not on the same street within two hundred (200) feet of the proposed facility.
26. Eligible Facilities Request.
- a. Tower-Based WCF Applicants proposing a Modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from Borough of South Greenburg.
 - b. In order to be considered for such permit, the Tower-Based WCF Applicant must submit a building permit application to the Borough in accordance with applicable permit policies and procedures.
27. Design Regulations:
- a. Any height extensions to an existing Tower-Based WCF shall require prior approval of the Borough. The Borough reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Borough.
 - b. The Tower-Based 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.
 - c. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the Tower-Based WCF applicant's Antennae and comparable Antennae for future users.

- d. All utilities that are extended to the site of the Tower-Based WCF shall be placed underground.

28. Surrounding Environs:

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

29. Fence/Screen:

- a. A security fence having a maximum height of eight (8) feet, and a minimum height of six (6) feet, shall completely surround any Tower-Based WCF, guy wires, or any building housing WCF equipment.
- b. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.
- c. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

30. 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.

31. 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 commercially reasonable. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Borough.

32. 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. The easement shall be a minimum of twenty (20) feet in width and the access shall be paved to a width of at least ten (10) feet throughout its entire length.

33. Bond. Prior to the issuance of a permit, the owner of a Tower-Based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor, in an amount of \$75,000 to assure the faithful performance of the terms and conditions of this Ordinance. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough and maintain the bond for the life of the respective facility.
34. Bond. Prior to the issuance of special permit use, the owner of a Tower-Based WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough and maintain the bond for the life of the respective facility. The owner of the Tower-Based WCF shall maintain a bond in the following amounts:
 - a. An amount of \$75,000 to assure the faithful performance of the terms and conditions of this Ordinance.
 - b. An amount determined by the Borough Council based on engineering estimates, to cover the cost of removing and disposing of the antenna, tower, and related facilities. The Borough Council may consider, but shall not be required to rely upon, applicant's written report, titled "Cost of Wireless Facilities Removal" certified by a registered Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania.
35. Visual or Land Use Impact. The Borough reserves the right to deny an application for the construction or placement of any Tower-Based WCF based upon visual and/or land use impact.
36. Graffiti. Any graffiti on the Tower-Based WCF, including Wireless Support Structure or on any accessory equipment, shall be removed at the sole expense of the owner within ten (10) days of notification by the Borough.
37. Inspection by Borough. 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.

V. Regulations Applicable to All Non-Tower Wireless Communications Facilities.

A. The following regulations shall apply to all Non-Tower Wireless Communications Facilities:

(1) Procedures.

- a. Any applicant proposing a Non-Tower WCF to be mounted on a building or any other structure shall submit detailed construction and elevation drawings indicating how the Non-Tower WCF will be mounted on the structure, for review by the Borough staff and Planning Commissions and for Approval by the Borough Council in accordance with the requirements of the Borough of South Greensburg Code of Ordinances.
- b. The applicant shall prove that it is licensed by the FCC to operate a Non-Tower WCF and that the proposed Non-Tower WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

(2) Development Regulations. Non-Tower Wireless Communications Facilities shall be collocated on existing structures, such as existing buildings or wireless support structures, subject to the following conditions:

- a. Permitted Subject to Regulations. Subject to the restrictions and conditions prescribed herein, Non-Tower WCFs are permitted in certain zoning districts as a conditional use upon review by the Borough Zoning Officer and approval by the Borough Council, in accordance with the requirements herein.
- b. Height. Such Non-Tower WCF shall not exceed the maximum height permitted in the applicable zoning district.
- c. Equipment building. If the Non-Tower WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- d. Fencing. A security fence with a maximum height of eight (8) feet, and a minimum height of 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.

(3) Application Fees. The Borough may assess appropriate and reasonable application fees in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs, subject to the limitations in this section, in amounts specified by the Wireless Fee Schedule.

(4) Site Plan. An applicant for a Non-Tower WCF must submit a full site plan to the Borough Zoning Officer which shall include:

- a. Written authorization from the Wireless Support Structure owner of the proposed Non-Tower WCF site that such facility may be sited on the Wireless Support Structure. Written authorization from the Wireless Support Structure owner consenting to the making of the application to the Borough for special permit use. Written acknowledgment from the Wireless Support Structure of being bound by this section, the conditions of any site plan approval authorized by the Borough, and all other requirements of the Borough Code.
- b. A site plan that is drawn to scale and shows the following features: property boundaries; existing and proposed structures; existing and proposed use(s); existing and proposed antennae; existing or proposed electrical power source; and scaled elevation view.
- c. A written report including: information describing the Antenna height and design; a cross-section of the Wireless Support Structure; engineering specifications detailing attachment of the Antenna to the Wireless Support Structure; information describing the proposed painting and lighting schemes; radio frequency coverage including scatter plot analysis and the input parameters for the scatter plot analysis; all Wireless Support Structure information to be certified by a registered Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania; and wireless telecommunications data to be certified by an appropriate wireless telecommunications professional.
- d. A written report, titled "Cost of Non-Tower Wireless Facilities Removal" certified by a registered Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania, detailing the total cost of removing and disposing of antenna and related facilities.
- e. An inventory of its existing wireless communications facilities, including all Tower-Based, Non-Tower, and Small WCF, that are either sited within the Borough or within one-quarter (1/4) mile of the border thereof. Such inventory shall include specific information about the location, height, design, and use of each wireless communications facility. The Borough may share such information with other applicants applying for site plan approvals or special permit use under this section or other organizations seeking to locate antennas within the Borough; provided, however, that the Borough is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- f. Other information deemed to be necessary by the Borough to assess compliance with this section.

(5) Prohibited in Residential Districts. No Non-Tower WCF shall be located within a residential district or within two hundred (200) feet of a lot in residential use or a residential district boundary.

- (6) Prohibited in Special Districts. No Non-Tower WCF shall be located within a special district or within two hundred (200) feet of a lot in special use or a special district boundary.
- (7) Eligible Facilities Request.
- a. Non-Tower WCF Applicants proposing a Modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from the Borough Zoning Officer.
 - b. In order to be considered for such permit, the Non-Tower WCF Applicant must submit a building permit application to the Borough in accordance with applicable permit policies and procedures.
- (8) Visual or Land Use Impact. The Borough reserves the right to deny an application for the construction or placement of any Non-Tower WCF based upon visual and/or land use impact.
- (9) Historic Buildings. Non-Tower WCFs may not be located on a building or structure that is listed on an historic register or is located in an historic district.
- (10) Timing of Approval. All applications for Non-Tower WCFs shall be acted upon by the Borough within ninety (90) days of the receipt of a fully completed application for the approval of such WCF, including an application fee in an amount specified by the Wireless Fee Schedule. If the Borough receives an application for a Non-Tower WCF and such application is not fully completed, then the Borough shall promptly notify the applicant that the application is not complete and the time for the approval of such application shall not commence until a fully completed application is received by the Borough.
- (11) 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.
- (12) Bond. Prior to the issuance of special permit use, the owner of a Non-Tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Law, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough and maintain the bond for the life of the respective facility. The owner of the Non-Tower WCF shall maintain a bond in the following amounts:

- a. An amount of \$75,000 to assure the faithful performance of the terms and conditions of this Ordinance.
- b. An amount determined by the Borough Council based on engineering estimates, to cover the cost of removing and disposing of the antenna and related facilities. The Borough Council may consider, but shall not be required to rely upon, applicant's written report, titled "Cost of Non-Tower Wireless Facilities Removal" certified by a registered Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania.

(13) Design Regulations.

- a. Non-Tower WCFs shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Borough.
- b. Non-Tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, unless the Non-Tower WCF applicant obtains a variance.
- c. All Non-Tower WCF applicants must submit documentation to the Borough justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- d. Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.

(14) 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.

(15) Wind. Any Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).

(16) 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.

- (17) 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. The owner or operator of such Non-Tower WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Borough Secretary on an annual basis. A Non-Tower WCF generating radio frequency emissions in excess of the standards and regulations of the FCC shall be considered an Emergency. The Borough reserves the authority to revoke the conditional use permit of any Non-Tower WCF generating radio frequency emissions in excess of the standards and regulations of the FCC.
- (18) Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (19) Inspection Report Requirements. No later than the first day of December of each odd-numbered year, the owner of the Non-Tower WCF shall have said Non-Tower WCF inspected by a Pennsylvania-licensed and registered Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or modification of Non-Tower WCFs. A copy of said inspection report and certification of continued use shall be provided to the Borough Zoning Officer no later than the first day of March following the inspection. Any repairs advised by the report shall be effected by the owner no later than sixty (60) calendar days after the report is filed with the Borough. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Non-Tower WCF shall again be inspected in accordance with the parameters and requirements described herein
- (20) Maintenance. 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.
- (21) Upgrade, Replacement, Modification.
- a. The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading, replacing, modifying, or repairing the WCF is permitted, so long as such upgrade, replacement, modification, or repair 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.
- (22) 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 Non-Tower WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Borough.
 - b. If the Non-Tower WCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or related facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF. Any cost to the Borough for such removal which is not paid under the owner's bond shall constitute a lien on the tax lot on which the Non-Tower WCF is situated and shall be collected in the same manner as a Municipal tax on real property.
- (23) Graffiti. Any graffiti on the Non-Tower WCF, including Wireless Support Structure or on any communications equipment or accessory equipment, shall be removed at the sole expense of the owner within ten (10) days of notification by the Borough.
- (24) Public Rights-of-Way. No Non-Tower WCF shall be located, in whole or in part, within the public rights-of-way.
- (25) Signs. All Non-Tower 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. No other signage or display is permitted.
- (26) Lighting. Non-Tower WCF shall not 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
- (27) Noise. Non-Tower 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 an electrical generator, where such noise standards may be exceeded on a temporary basis only.
- (28) Inspection by Borough. The Borough reserves the right to inspect any Non-Tower WCF to ensure compliance with the provisions of this Law 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 Non-Tower WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

VI. Regulations Applicable to all Small Wireless Communications Facilities.

A. The following regulations shall apply to Small Wireless Communications Facilities:

(1) Development Regulations.

- (a) Small WCF are permitted by administrative approval from the Borough Zoning Officer in all Borough zoning districts, subject to the requirements of this section, § 27-807(VI) and generally applicable permitting as required by the Borough Code.
- (b) Small WCF located within Underground Districts shall be collocated on existing or replacement Wireless Support Structures. No new Wireless Support Structure may be installed for the purpose of supporting a Small WCF within Underground Districts.
- (c) Small WCF in the public ROW requiring the installation of a new Wireless Support Structure shall not be located directly in front of any building entrance or exit.
- (d) All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all Borough Code requirements applicable to streets and sidewalks.

(2) Procedures.

- a. Any applicant proposing a Small WCF shall submit an application for review by the Borough staff.
- b. The applicant shall prove that it is licensed by the FCC to operate a Small WCF and that the proposed Small WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

(3) Timing of Approval.

- (a) Within sixty (60) days of receipt of an application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the Borough Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
- (b) Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new Wireless Support Structure, the Borough Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

- (c) Within ten (10) calendar days of the date that an application for a Small WCF is filed with the Borough Zoning Officer, the Borough shall notify the WCF Applicant in writing of any information that may be required to complete such application.
- (4) Eligible Facilities Request.
- a. Small WCF Applicants proposing a Modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from the Borough of South Greensburg.
 - b. In order to be considered for such permit, the Small WCF Applicant must submit a building permit application to the Borough in accordance with applicable permit policies and procedures.
- (5) Non-Conforming Wireless Support Structures. Small WCF shall be permitted to collocate upon non-conforming Tower-Based WCF and other non-conforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.
- (6) Application Fees. The Borough may assess appropriate and reasonable application fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs, subject to the limitations in this section, in amounts specified by the Wireless Fee Schedule.
- (7) Standard of care. Any Small 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, the Pennsylvania UCC, or to the industry standard applicable to the structure. 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.
- (8) Historic Buildings. No Small WCF may be located within one hundred (100) feet of any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Borough.
- (9) Wind and Ice. All Small WCF shall be designed to withstand the effects of wind gusts and ice 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), or to the industry standard applicable to the structure.
- (10) Radio Frequency Emissions. A Small WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of

the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The owner or operator of such Small WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Borough Secretary on an annual basis. A Small WCF generating radio frequency emissions in excess of the standards and regulations of the FCC shall be considered an Emergency. The Borough reserves the authority to revoke the permit of any Small WCF generating radio frequency emissions in excess of the standards and regulations of the FCC.

- (11) Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- (12) Accessory Equipment. Small WCF and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Borough.
- (13) Graffiti. Any graffiti on the Wireless Support Structure or on any Accessory Equipment shall be removed at the sole expense of the owner within ten (10) days of notification by the Borough.
- (14) Design Standards. All Small WCF in the Borough shall comply with the requirements of the Borough Small Wireless Communications Facility Design Manual, a copy of which is on file with the Borough of South Greensburg.
- (15) Collocation. An application for a new Small WCF in the ROW shall not be approved unless the Borough finds that the proposed wireless communications equipment cannot be accommodated on an existing structure, such as a utility pole or traffic light pole. Any application for approval of a Small WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a one-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Borough that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized
- (16) Relocation or Removal of Facilities. Within ninety (90) 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 Small 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
- (17) 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 Small WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Law. The applicant and/or owner of the Small WCF shall reimburse the Borough for all reasonable costs of the Borough's consultant(s) and/or expert(s) in providing expert evaluation and consultation in connection with these activities, provided that such costs are a reasonable approximation of costs incurred, the costs are reasonable, and the costs are non-discriminatory.
- (18) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each Small WCF shall pay an annual fee to the Borough, in an amount specified by the Wireless Fee Schedule, to compensate the Borough for the Borough's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

VII. Regulations Applicable to All Wireless Facilities

- A. Borough Property. Nothing in this Wireless Communications Facilities Ordinance shall be deemed to create any offer, right, or entitlement to use Borough property for the construction or operation of Tower-Based WCF, Non-Tower WCF, Small WCF, Wireless Support Structures, or related facilities. Any such Tower-Based WCF, Non-Tower WCF, Small WCF, Wireless Support Structure, or related facility proposed to be sited on property owned, leased, or otherwise controlled by the Borough of South Greensburg may be exempt from the requirements of this Ordinance. The Borough retains the right to require applicants to obtain site plan approval from the Borough Council in accordance with the requirements of this Ordinance. No Tower-Based WCF, Non-Tower WCF, Small WCF, Wireless Support Structures, or related facilities may be constructed or installed on Borough property until a license or lease agreement authorizing such Wireless Facility has been approved by the Borough Council.
- B. Penalties. Any Person violating any provision of this Ordinance shall be subject, upon finding by a magisterial district judge, to a penalty not exceeding five hundred dollars (\$500), for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be

deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Ordinance and any other remedy at law or in equity, the Borough may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Ordinance.

- C. Determination of Violation. In the event a determination is made that a Person has violated any provision of this Ordinance, such Person shall be provided written notice of the determination and the reasons therefore. Except in the case of an Emergency, the Person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Borough may, in its reasonable judgment, extend the time period to cure, provided the Person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Borough may take any and all actions authorized by this Ordinance and/or federal and/or Pennsylvania law and regulations.
- D. Revocation of Conditional Use Permit. Any conditional use permit granted under this chapter may be revoked by the Borough Council after a hearing, conducted on at least fifteen (15) days' written notice to the owner of the Wireless Communications Facility and any related facilities, and an opportunity to be heard. If at such hearing it shall be shown by substantial evidence that the Wireless Communications Facility and related facilities constitute a threat to public safety, health, or welfare, or that the conditions of the conditional use permit have been materially violated, the Borough Council may revoke the conditional use permit.

VIII. Insurance and Indemnification

- A. Requirement of Insurance. Each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall purchase and maintain, at its sole expense, certain insurance coverages of specified minimum rating, as listed herein, and shall provide documentation to the Borough Secretary, upon request, and as provided herein.
- B. No Payment or Reimbursement. Each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall be solely responsible for bearing the costs of furnishing and maintaining all required insurance coverages of specified minimum rating, as listed herein. The Borough shall not provide direct payment or reimbursement to Persons for the costs of maintaining the required insurance coverages. The Borough shall not provide direct payment or reimbursement to Persons for the costs of furnishing the required insurance coverages.
- C. Specified Minimum Insurance Ratings, Registration, and Additional Endorsement. All insurance carriers listed in the Certificate(s) of Insurance for the required insurance coverages shall have, at minimum, a credit rating of "Rated A VII or Better" from the A.M. Best Company and shall be licensed in the Commonwealth of Pennsylvania. Each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall name the Borough of South Greensburg as an Additional Insured by endorsement on the Certificate(s) of Insurance.

- D. Furnishment of Certificates Prior to Commencement. Prior to the initial commencement of any construction, operation, or removal, each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall furnish Certificates of Insurance to the Borough Secretary evidencing coverage in compliance with the regulations herein. The failure of the Borough of South Greensburg to object to the contents of the Certificate(s) of Insurance or absence of same shall not be deemed a waiver of any legal rights held by the Borough of South Greensburg.
- E. Revocation of Permit. The failure of any Person to construct, operate, or remove a Wireless Communications Facility without complying with the insurance coverage and administrative requirements herein shall constitute an Emergency. Upon such Emergency, the Borough reserves the authority to revoke the permit of any Wireless Communications Facility for failure to comply with the insurance coverage and administrative requirements herein.
- F. Minimum Insurance Requirements. Each Person that owns or operates a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall maintain the following minimum insurance coverages:
- a. Worker's Compensation and Employers Liability Policy, covering operations in Pennsylvania. Waiver of Subrogation to be included with documentation provided to the Borough Secretary.
 - b. Commercial General Liability Policy, with limits of no less than \$1,000,000 (one million U.S.D.) Each Occurrence, per WCF location and \$2,000,000 (two million U.S.D.) General Aggregate, per WCF location, with limits for Bodily Injury and Property Damage, and shall include the following coverages and endorsements:
 - i. Premises and Operations;
 - ii. Products/Completed Operations;
 - iii. Independent Contractors;
 - iv. Personal and Advertising Injury;
 - v. Blanket Contractual Liability;
 - vi. Explosion, Collapse, Underground Liability (XCU)
 - vii. Borough of South Greensburg and their assigns, officers, employees, volunteers, representatives and agents should be named as an "Additional Insured" on the policy using ISO Additional Insured Endorsement CG 20 10 11/85 or an endorsement providing equivalent or broader coverage and

shall apply on a primary and noncontributory basis, including any self-insured retentions.

- viii. The Certificate of Insurance should show this applies to the General Liability coverage on the certificate, and Additional Insured Endorsement shall be attached.
 - ix. To the extent permitted by Pennsylvania law, each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility waives all rights of subrogation or similar rights against the Borough of South Greensburg, assigns, officers, employees, volunteers, representatives and agents.
 - x. Cross Liability coverage (Commercial General Liability and Business Automobile Liability policies only.)
 - xi. Coverage must be written on an Occurrence Policy Form.
 - xii. No deductible or Self Insured Retention should exceed \$50,000 (fifty-thousand U.S.D.).
- c. Comprehensive Automobile Policy, with limits of no less than \$1,000,000 (one million U.S.D.). Bodily Injury and Property Damage liability including coverage for owned, any auto non-owned, and hired private passenger and commercial vehicles. The Borough of South Greensburg and their assigns, officers, employees, representatives and agents should be named as an "Additional Insured" on the policy. The Certificate of Insurance should show this applies to the Automobile Liability coverage on the certificate, and Additional Insured Endorsement shall be attached. To the extent permitted by Pennsylvania law, each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility waives all rights of subrogation or similar rights against the Borough of South Greensburg, assigns, officers, employees, representatives and agents. Coverage must apply on a primary and noncontributory basis.
 - d. Umbrella Liability, with limits of no less than \$5,000,000 (five million U.S.D.) Each Occurrence per WCF location and \$5,000,000 (five million) General Aggregate per WCF location, including coverage for General Liability, Automobile, Workers Compensation. Coverage must be written on an Occurrence Policy Form and include provisions "G" and "H".
 - e. Professional Liability (if applicable), with limits no less than \$1,000,000 (one million U.S.D.) per Claim.

G. Increasing the Minimum Insurance Requirements. The Minimum Insurance Requirements specified herein may be increased upon the review and determination of the Borough Council.

- H. Notice Prior to Cancellation or Expiration of Insurance. The Certificate(s) of Insurance shall provide that thirty (30) days written notice prior to cancellation or expiration be given to the Borough Secretary via U.S. Postal Mail. Insurance policies that lapse and/or expire during term of work shall be recertified and received by the Borough Secretary no less than thirty (30) days prior to expiration or cancellation of the respective policy.
- I. Requirement to Indemnify and Hold Harmless. Each Person that owns or operates a Tower-Based WCF, a Non-Tower WCF, or a Small 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 each of its WCF.
- J. Requirement to Defend. Each Person that owns or operates a Tower-Based WCF, a Non-Tower WCF, or a Small 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 each of its WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs, and all other costs of indemnification.
- K. Indemnification and Hold Harmless Agreement Requirement. Prior to the initial commencement of any construction, operation, or removal, each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall furnish an "Indemnification and Hold Harmless Agreement" to the Borough Secretary.

IX. 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 five (5) days after enactment by the Borough Council of the Borough of South Greensburg.

SECTION 2. The section currently numbered 163-35 of Chapter 163, Zoning, within the Borough of South Greensburg Code, and all following sections shall be renumbered starting with 163-36 to account for the addition of the new section 163-35 detailed above.

SECTION 3. The following Sections of Chapter 163, Zoning, of the Borough of South Greensburg Code are hereby amended to include "Small Wireless Communications Facility" as a permitted use: 163-8, 163-12, 163-16, 163-19, 163-23, and 163-26.

SECTION 4. That the Borough President, Borough Secretary and any proper Borough officer is authorized and directed to execute any and all documents and to take any and all action necessary in order to carry in effect the within ordinance.

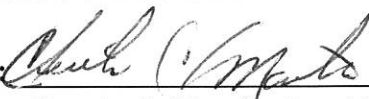
SECTION 5. This ordinance shall become effective immediately upon passage.

ORDAINED AND ENACTED into an Ordinance of the Borough of South Greensburg this 8th day of November, 2021, by the Council for the Borough of South Greensburg.

ATTEST:

By: 
Jaime Peticca, Secretary

BOROUGH OF SOUTH GREENSBURG

By: 
Clentin C. Martin, President of Council

READ AND APPROVED by me this 8th day of November, 2021.

By: 
Kevin Fajt, Mayor