

**EXETER TOWNSHIP**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWNSHIP OF EXETER, BERKS COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP OF EXETER ZONING ORDINANCE, AS AMENDED, WHICH IS CODIFIED IN CHAPTER 390 OF THE EXETER TOWNSHIP CODE, BY ESTABLISHING CHAPTER 390-71.8 TO REGULATE THE USE OF TELECOMMUNICATIONS FACILITIES**

**PURSUANT TO THE AUTHORITY CONTAINED IN THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AS AMENDED, 53 P.S. § 10101, ET SEQ., AND THE PENNSYLVANIA SECOND CLASS TOWNSHIP CODE, AS AMENDED, 53 P.S. § 65101, ET SEQ., THE BOARD OF SUPERVISORS OF EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, DOES HEREBY ENACT AND ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 390, Article VI of the Exeter Township Code of Ordinances, “General Regulations,” is hereby amended by inserting Chapter 390-71.8, titled “Telecommunications:”

**§ 390-71.8. Telecommunications**

**A. Purpose.**

- (1) The purpose of this section is to establish general guidelines for the siting and operation of wireless communications facilities. The goals of this section are to:
  - (a) Protect residential areas and land uses from potential adverse impacts of wireless communications facilities;
  - (b) Encourage the location of Tower-Based Wireless Communications Facilities in nonresidential areas;
  - (c) Minimize the total number of Tower-Based Wireless Communications Facilities throughout the community;
  - (d) Strongly encourage Collocation on existing Tower sites as a primary option rather than the construction of additional single-use Towers;
  - (e) Encourage users of Towers and Antennas to locate them, to the extent possible, in areas where the adverse impact to the community is minimal;
  - (f) Encourage developers and owners of wireless communications facilities to configure them in a way that minimizes the adverse visual impact of WCFs through careful design, siting, landscape screening, and innovative camouflaging techniques;

- (g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
  - (h) Consider the public safety effects of WCFs; and
  - (i) Minimize potential damage to adjacent properties from Tower failure through engineering and careful siting of wireless communications facilities.
- (2) In furtherance of these goals, the Township of Exeter shall give due consideration to Township of Exeter's Comprehensive Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of wireless communications facilities.

B. Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

**ANTENNA** - An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services

**BACKHAUL NETWORK** - The lines that connect a provider's Towers/cell sites to one or more cellular telephone, switching offices, and/or long distance providers, or the public switched telephone network.

**BASE STATION** - A wireless support structure or wireless communications facility at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower-Based WCF as defined herein or any equipment associated with a Tower-Based WCF.

- (1) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (2) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- (3) The term includes any structure other than a Tower-Based WCF that, at the time the relevant application is filed with the Township, supports or houses equipment described in subsections (1)-(2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or

under another Township regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

- (4) The term does not include any structure that, at the time the relevant application is filed with the Township under this section, does not support or house equipment described in subsections (1)-(2) of this definition.

**COLLOCATION OR COLLOCATED** - The mounting of one or more WCFs, including Antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

**DEPLOYMENT OR DEPLOY** - The placement, construction, or modification of a WCF.

**DISTRIBUTED ANTENNA SYSTEMS (DAS)** - A network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

**ELIGIBLE FACILITIES REQUEST** - any request for modification of an existing Wireless Support Structure that does not Substantially Change the physical dimensions of the Wireless Support Structure and that involves— (A) Collocation of a new Antenna, WCF, or Related Equipment; (B) removal of an Antenna, WCF, or Related Equipment; or (C) replacement of an Antenna, WCF, or Related Equipment.

**ELIGIBLE SUPPORT STRUCTURE** - Any Base Station, Tower-Based WCF, or Wireless Support Structure that has been previously approved to support a WCF, provided that it is existing at the time the relevant application is filed with the State or local government under this section.

**FAA** - The Federal Aviation Administration.

**FCC** - The Federal Communications Commission.

**HEIGHT OF A TOWER-BASED WCF** - The vertical distance measured from the ground level, including any base pad, to the highest point on a Tower-Based Wireless Communications Facility, including the Tower and any Antennas mounted on the Tower and any other appurtenances.

**MONOPOLE** - A Wireless Support Structure that consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications Antennas and connecting appurtenances.

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)** - Wireless Communications Facilities Collocated on existing structures, such as, but not limited to, existing Towers, buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles, and other similar structures that do not require the installation of a new support structure solely for the purpose of supporting the Non-Tower WCF.

**PRE-EXISTING TOWERS and PRE-EXISTING ANTENNAS** - Any Tower or Antenna for which a building permit or zoning permit has been properly issued prior to the effective date of this chapter, including permitted Towers or Antennas that have not yet been constructed, so long as such approval is current and not expired.

**RELATED EQUIPMENT** - Any piece of equipment related to, incidental to, or necessary for, the operation of a Wireless Communications Facility, including, but not limited to, generators, equipment shelters, equipment cabinets, ice bridges, and fuel sources.

**RIGHT-OF-WAY (ROW)** — The surface of and space above and below any real property in which the Federal, State or Township government 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, and any unrestricted public or utility easements established, dedicated, platted, improved, or devoted for utility purposes. The phrase “in the ROW(s)” means in, on, over, along, above, and/or under the Right-of-Way.

**SMALL WIRELESS COMMUNICATIONS FACILITY (SMALL WCF)** – Wireless communications facilities meeting the definition of “small wireless facilities” in 47 CFR § 1.6002(l):

- (1) The facilities—
  - (a) Are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR § 1.1320(d); or
  - (b) Are mounted on structures no more than 10 percent taller than other adjacent structures; or
  - (c) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of “antenna” in 47 CFR § 1.1320(d)), is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is 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).

Small WCFs must meet all building height requirements of the underlying zoning district and the requirements for Small WCFs described in this chapter, unless preempted by state or federal law.

**STEALTH TECHNOLOGY** — Camouflaging methods applied to Wireless Communications Facilities, Antennas, and other facilities that 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 WCFs, WCFs painted to match the existing structure, and facilities constructed to resemble trees, shrubs, and light poles.

**SUBSTANTIALLY CHANGE OR SUBSTANTIAL CHANGE** — A modification substantially changes the physical dimensions of an Eligible Support Structure if it meets any of the following criteria:

- (1) For Towers and Eligible Support Structures outside the public ROWs, it increases the height of the Tower or Eligible 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 feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater.
  - (a) Changes in height should be measured from the original wireless support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the Tower or Base Station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.
- (2) For Towers outside the public ROWs, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (3) For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for Towers in the public ROWs and Base Stations, it involves installation of any new equipment cabinets on the

ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

- (4) It entails any excavation or deployment outside the current site;
- (5) It would defeat the concealment elements of the Eligible Support Structure;  
or
- (6) It does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 47 CFR § 1.6100(b)(7)(i) through (iv).

**TOWER** - Any structure that is designed and constructed primarily for the purpose of supporting one or more Antennas for telephone, radio, or similar communications purposes, including self-supporting lattice Towers, guyed Towers, or monopole Towers. The term includes the structure and any support thereto. The term does not include any structure designed and constructed primarily to support one (1) or more Small WCFs.

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)** — A Wireless Communication Facility requiring the construction of a Tower for support, including, but not limited to, self-supporting lattice Towers, guyed Towers, and monopoles. The term “Tower-Based Wireless Communications Facility” shall include the Tower, Antenna, and all Related Equipment. The term “Tower-Based Wireless Communications Facility” shall not include WCFs that qualify as Small WCFs.

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

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

**WIRELESS COMMUNICATIONS FACILITY (WCF)** — The Antennas, nodes, transmission lines, control boxes, poles, conduits, ducts, pedestals, electronics, and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services. DAS Antenna sites are Wireless Communications Facilities.

**WIRELESS SUPPORT STRUCTURE** — A pole, Tower, Base Station, or other structure, whether or not it supports an existing WCF, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

C. Applicability.

- (1) All new Antennas, DAS, Non-Tower WCFs, Tower-Based WCFs, Towers, and Wireless Support Structures in the Township of Exeter shall be subject to these regulations.
- (2) Pre-existing Antennas, DAS, Non-Tower WCFs, Tower-Based WCFs, Towers, and Wireless Support Structures shall not be subject to these regulations, other than the requirements of § 390-71.8D(6) and (7). All Pre-existing Antennas, DAS, Non-Tower WCFs, Tower-Based WCFs, Towers, and Wireless Support Structures that do not meet the requirements of this section, as amended, shall be considered pre-existing, nonconforming uses, and/or structures, as applicable. Any modification, repair, or replacement of a Pre-existing Antenna, DAS, Non-Tower WCF, Tower-Based WCF, Tower or Wireless Support Structure must comply with these regulations.
- (3) The following uses are not governed by the provisions of this section, but are governed by other sections of Chapter 390 and all other applicable ordinances, regulations, and statutes: Antennas used for amateur radio communications (“Ham Radio Antennas”); structures erected solely to mount Ham Radio Antennas; and satellite dishes less than 40 inches in diameter and used solely for personal, residential use.

D. General requirements for All WCFs.

- (1) Principal or accessory use. WCFs may be considered either principal or accessory uses.
- (2) Lot size. For purposes of determining whether the installation of a WCF complies with district development regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the WCF may be located on leased parcels within such lot.
- (3) Inventory of existing sites. Each applicant seeking to erect a Tower shall provide to the Zoning Officer an inventory of its existing Towers that are either within the jurisdiction of the Township of Exeter or within one mile of the border thereof, including specific information about the location, height, and design of each existing Tower. The Zoning Officer may share such information with other applicants applying for approvals or permits under this chapter or other organizations seeking to locate WCFs within the jurisdiction of the Township of Exeter; provided, however, that the Zoning Officer is not, by sharing such information, disclosing any confidential information or in any way representing or warranting that such sites are available or suitable.
- (4) Lighting. Towers shall not be artificially lighted, unless required by the FAA, the Township of Exeter, or other applicable authority. If lighting is required, the lighting alternatives and design chosen will be specified by the

Township of Exeter and conform to FAA regulations and other chapters of the Township Code.

- (5) Eligible Facilities Request. WCF Applicants proposing an Eligible Facilities Request or the Collocation of a Small WCF that falls under the WBCA shall be required only to obtain a building permit from the Township Zoning Officer, and shall not be required to meet the height limitations or bulk and area requirements of the underlying zoning district. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures, subject to the applicable requirements of federal law and the WBCA.
- (6) Wind. All 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-G, as amended).
- (7) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF. A current schedule of applicable fees is available on the Township's website and in the Township's offices.
- (8) Aviation Safety. WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (9) Public Safety Communications. WCF shall not interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- (10) Radio Frequency Emissions. A 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. Applicants for WCFs must demonstrate that the proposed WCFs meet this requirement.
- (11) State or federal requirements. All WCFs, Towers, and Wireless Support Structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate WCFs or Wireless Support Structures. If changes to such state or federal standards or regulations mandate modifications of the then-existing WCFs, Towers, or Wireless Support Structures, then the owners and/or operators of the WCFs and Wireless Support Structures



governed by this chapter shall bring such WCFs and Wireless Support Structures into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring WCFs, Towers, and Wireless Support Structures into compliance with such revised standards and regulations shall constitute grounds for the removal of the WCF, Tower, and/or Wireless Support Structure at the owner's expense.

- (12) Building codes/safety standards. To ensure the structural integrity of Towers and Wireless Support Structures, the owner a Tower or Wireless Support Structure shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for Towers and/or Wireless Support Structures that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township of Exeter concludes that a Tower or Wireless Support Structure fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Tower or Wireless Support Structure, the owner shall have 30 days to bring such Tower or Wireless Support Structure into compliance with such standards. Failure to bring such Tower or Wireless Support Structure into compliance within said 30 days shall constitute grounds for the removal of the Tower or Wireless Support Structure at the owner's expense.
- (13) Measurement. For purposes of measurement, Tower and Wireless Support Structure setbacks and separation distances shall be calculated and applied to facilities located in the Township of Exeter irrespective of municipal and county jurisdiction boundaries.
- (14) Not essential services. To the extent not preempted by state or federal law, WCFs and Wireless Support Structures shall be regulated and permitted pursuant to this Chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (15) Public notice. For purposes of this section, any applicant proposing the installation of a WCF requiring a conditional use or variance request shall be required to issue public notice, as defined by the Municipalities Planning Code, and individual notice, as defined in this Chapter, to all abutting property owners and all owners of parcels that are located within a 500 ft. radius from the proposed WCF, in addition to any notice otherwise required by law.
- (16) Indemnification. The owner and operator of a WCF shall, at the owner and operator's sole cost and expense, enter into an agreement to indemnify, defend, and hold harmless the Township, its elected and appointed officials, employees, and agents, at all times against any and all claims for personal

injury, including death, and property damage arising in whole or in part from, caused by, or connected with any act or omission of the owner or operator and their respective officers, agents, employees, or contractors arising out of, but not limited to, the construction, installation, operation, maintenance, or removal of the WCF. The owner and operator shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance, or removal of a 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, expert fees, court costs, and all other costs of indemnification.

- (17) Signs. All WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF or at the WCF site shall be those required by the FCC, or any other federal or state agency.
- (18) Wireless Support Structures and Related Equipment. Wireless Support Structures and Related Equipment shall comply with the requirements of § 390-71.8K.
- (19) Multiple Antenna/Tower/WCF plan. The Township of Exeter encourages the users of Antennas, Towers, and WCFs to submit a single application for approval of multiple Antenna, Tower, and/or WCF sites. Applications for approval of multiple sites shall be given priority in the review process.
- (20) Timing of Municipal Action.
  - (a) Applications for all permits required by this section and any other applicable Township Code section shall be reviewed within the following timeframes, unless (1) the applicant and Township agree to a different time period or (2) circumstances make compliance with the following time periods objectively unreasonable:
    - [1] To Collocate a Small WCF on an existing Wireless Support Structure – sixty (60) days.
    - [2] To Collocate a Non-Tower WCF that is not a Small WCF on an existing Wireless Support Structure – ninety (90) days.
    - [3] To deploy a Small WCF on a new Wireless Support Structure – ninety (90) days.
    - [4] To deploy a Tower-Based WCF on a new Tower – 150 days.
  - (b) Batching of Applications for Small WCFs. The time periods detailed in this section apply even if a single application seeks

authorization to deploy multiple Small WCFs, provided that the application seeks authorization for only one type of deployment, e.g., the Collocation of Small WCFs on existing Wireless Support Structures, or the deployment of Small WCFs on new Wireless Support Structures. In the event that a single application seeks authorization for a mix between those deployments described in §§ 390-71.8(D)(20)(a)[1] and 390-71.8(D)(20)(a)[3], the time period for review for the application shall be ninety (90) days, unless such a time period is unreasonable.

(c) Tolling Periods.

- [1] If the Township determines that an application to deploy Small WCFs is materially incomplete, the Township shall notify the applicant of the deficiencies, with citations to the rule or regulation that requires submission of the missing information or documentation, within ten (10) days of receipt of the application. The shot clock for review of the application restarts at zero on the date on which the applicant submits the information or documents identified by the Township in the notice of deficiency.
- [2] For all other initial applications, the tolling period is the number of days from the day after the date the Township notifies the applicant in writing of the material deficiencies, with citations to the rule or regulation that requires submission of the missing information or documentation, until the date when the applicant submits the missing information or documents identified in the written notice of deficiency. This tolling period shall not apply unless the Township notifies the applicant of the material deficiencies on or before the 30<sup>th</sup> day after the date that the application was submitted.
- [3] For resubmitted applications following a notice of deficiency, the tolling period is the number of days from the day after the date the Township notifies the applicant in writing that the applicant's supplemental submission failed to render the application complete until the date when the applicant submits all of the information and documentation identified by the Township, provided that the Township notifies the applicant that the application remains deficient on or before the 10<sup>th</sup> day after the date when the applicant makes the supplemental submission.

E. Non-Tower Wireless Communications Facilities

- (1) The following regulations shall apply to all Non-Tower WCFs:
- (a) Permitted in All Zoning Districts Subject to Regulations. Non-Tower WCFs may be Collocated, modified, or replaced on Wireless Support Structures in all Zoning Districts, provided the Collocation, modification, or replacement does not result in a Substantial Change to the Wireless Support Structure, subject to the restrictions and conditions prescribed below, applicable law, and permitting by the Township.
  - (b) Conditional Use Authorization In All Zoning Districts. The Collocation, modification, or replacement of a Non-Tower WCF that Substantially Changes an existing Wireless Support Structure or expands an equipment compound shall be permitted only upon conditional use approval of the Board of Supervisors.
  - (c) Placement in ROWs. Non-Tower WCFs are not permitted in the ROWs in the zoning districts identified in Article IV of this Chapter, Conservation and Residential Zoning Districts. Non-Tower WCFs may be Collocated in the ROWs in the zoning districts identified in Article V of this Chapter, Commercial and Industrial Zoning Districts, upon conditional use approval.
  - (d) Height Limitations. Except as described in § 390-71.8D(5), and to the extent not preempted by state or federal law, the deployment of a Non-Tower WCF shall require compliance with the height limitations and bulk and area requirements of the underlying zoning district.
  - (e) Prohibited on Certain Structures. Non-Tower WCFs shall not be located on single-family detached residences, single-family attached residences, or any residential accessory structure.
  - (f) Historic Resources. Non-Tower WCFs shall not be located on a property, building, or structure that is (a) listed on the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or (b) listed on any official inventory of Historic Resources maintained by the Township, unless the owner is entitled to such installation by federal rules and regulations.
  - (g) Insurance. The owner and operator of a Non-Tower WCF shall provide the Township with a certificate of insurance that includes the Township as an additional insured, and that evidences 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 WCFs.

- (h) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
  - [1] Non-Tower WCFs shall be fully automated and unattended on a daily basis, and shall be visited only for maintenance or emergency repair.
  - [2] Maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security.
  - [3] Maintenance activities shall utilize the best available technology for preventing failures and accidents.
- (i) Reservation of Rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any Non-Tower WCF for numerous factors, which include but are not limited to, visual impact, design, and safety standards.
- (j) Engineer Seal and Signature. All plans and drawings for a Non-Tower WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (2) The following additional regulations shall apply to Non-Tower WCFs located outside of ROWs:
  - (a) Development Regulations. Non-Tower WCFs shall be Collocated on Wireless Support Structures, and shall be subject to the following conditions:
    - [1] The applicant for a Non-Tower WCF must submit documentation that justifies the total height of the proposed Non-Tower WCF as mounted on the Wireless Support Structure.
    - [2] If Related Equipment is proposed to be located in a separate building or structure, the building or structure shall comply with all applicable area and bulk requirements set forth in the underlying zoning district.
    - [3] An opaque security fence, not chainlink, and at least eight (8) feet in height shall surround any Related Equipment housed in a separate building or structure, and landscaping shall be installed around the fencing, to provide four-season screening from all abutting properties. Vehicular access to the Non-Tower WCFs and Related Equipment shall not interfere with the parking or vehicular circulation of the site's principal use.

- (b) Design Regulations. Non-Tower WCFs, to the extent technically feasible, shall employ stealth technology and shall be treated to match the Wireless Support Structure to which they are attached, in order to minimize aesthetic impact. Aesthetic standards specific to the different types of Non-Tower WCFs are available on the Township's website and in the Township's offices. Satellite dishes and Antennas used for the purpose of receiving television, phone, and/or internet connections at a private residence or business only shall be exempt from the design regulations enumerated herein.
  - (c) Removal, Replacement, and Modification. The removal, replacement, and modification of Non-Tower WCFs and/or Related Equipment, for the purpose of upgrading or repairing the Non-Tower WCF and/or Related Equipment, shall be permitted, provided that (a) such repair or upgrade does not Substantially Change the Non-Tower WCF or the number of Antennas, (b) the change in the equipment does not affect the Non-Tower WCF's compliance with Section 390-71.8K, and (c) any required permits are obtained from the Township.
  - (d) Inspection. The Township reserves the right to inspect Non-Tower WCFs to ensure compliance with the provisions noted herein, and with any other provision in Township Code or Federal or State Law. The Township 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.
- (3) The following additional regulations apply to Non-Tower WCFs in ROWs:
- (a) Collocation. Non-Tower WCFs that are not Small WCFs shall be Collocated on existing Wireless Support Structures or replacement Wireless Support Structures that are constructed to support WCFs and perform the function of an existing Wireless Support Structure. Such Collocation or deployment on a replacement Wireless Support Structure is only permitted in the Commercial and Industrial Zoning Districts upon conditional use approval. The replacement Wireless Support Structure must be decommissioned and removed following the completion of construction. The replacement Wireless Support Structures must be located as close as feasible to the to-be-removed Wireless Support Structure and must comply with all other regulations applicable to the type of Wireless Support Structure that was replaced.
  - (b) Design Requirements. Non-Tower WCFs shall meet the following design conditions:

- [1] All Related Equipment components located above the surface grade shall be no greater than three (3) feet in height.
  - [2] All Related Equipment employed shall be the smallest and least visibly intrusive equipment feasible.
  - [3] Antennas and all Related Equipment shall be treated to match the supporting structure, and Non-Tower WCFs and Related Equipment shall be painted, or otherwise coated, to be visually compatible with the Wireless Support Structure on which they are mounted.
- (c) Time, Place, and Manner. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all Non-Tower WCFs in ROWs, based on public safety, traffic management, physical burden on the Right-of-Way, and related considerations, in the sole discretion of the Township.
- (d) Equipment Location. Non-Tower WCFs and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROWs, as determined by the Township, in its sole discretion. In addition:
- [1] Ground-mounted equipment, walls, or landscaping shall not be located within eighteen (18) inches of the face of the curb, or within that part of an easement extending onto a privately-owned lot, without the private landowner's permission as memorialized in a recorded easement.
  - [2] Ground-mounted equipment that cannot be installed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features, to the satisfaction of the Township.
  - [3] Graffiti on a Wireless Support Structure, Non-Tower WCF, or Related Equipment shall be removed at the sole expense of the owner within ten (10) business days of the date of notice from the Township of the existence of the graffiti.
  - [4] All underground vaults shall be reviewed and approved by the Township.
  - [5] Replacement Wireless Support Structures shall not be located in front of any building entrance or exit.

- (4) Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Non-Tower WCF in the Right-of-Way shall, at his or her own expense, temporarily or permanently remove, relocate, change, or alter the position of any Non-Tower WCF when the Township determines that such removal, relocation, change, or alteration is reasonably necessary to construct, repair, maintain, or install a Township or other public improvement in the Right-of-Way; conduct operations of the Township; to conduct the operations of another government entity, in the Right-of-Way; vacate a roadway; establish or release a utility or other easement; or address an emergency as determined by the Township.

F. Tower-Based Wireless Communications Facilities

- (1) The following regulations shall apply to all Tower-Based Wireless Communications Facilities (Tower-Based WCFs):

- (a) Conditional Use Approval. Towers are permitted only in the FI-Flex Industrial, LI-Light Industrial, and GI-General Industrial zoning districts by conditional use approval of the Board of Supervisors.

- (b) In addition to proving compliance with all other applicable requirements in this Section and Section 390-90, to receive conditional use approval, the applicant shall:

- [1] Demonstrate the proposed height of the Tower is the minimum height required to operate the Tower-Based WCF. No applicant shall have the right under these regulations to erect a Tower to the maximum height specified in this Article unless it proves the necessity for such height. The applicant shall demonstrate the Tower is proposed at the minimum height necessary for the service area.

- [2] Demonstrate that the applicant cannot adequately extend or infill its communications system by the use of Antennas and/or Non-Tower WCFs.

- [3] Demonstrate the proposed Tower complies with all state and federal laws and regulations concerning aviation safety.

- [4] Provide a written commitment that it will allow other service providers to Collocate on the Tower where this is technically and economically feasible.

- [5] For a Tower that is located on a property with another principal use, provide documentation that the property



owner has granted an easement or lease for the proposed Tower, and that vehicular access will be provided to the facility by way of easement from a public road to the Tower.

- (c) Engineer Inspection, Seal, and Signature. Prior to the issuance of a permit authorizing construction and erection of a Tower-Based WCF, a structural engineer licensed in Pennsylvania shall issue to the Township a written certification of the Tower's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association. All plans and drawings for a Tower and/or Tower-Based WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (d) Visual appearance. Towers and Tower-Based WCFs shall employ stealth technology to minimize aesthetic impact. All wireless communications equipment buildings and other accessory facilities shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.
  - [1] The Township may require that equipment cabinets and Related Equipment that houses electrical transmitters and like components be placed underground, unless determined to be detrimental to the functioning and physical integrity of such equipment.
  - [2] The Township may consider whether stealth technology for the proposed Tower and/or Tower-Based WCF promotes the harmonious and orderly development of the zoning district involved; encourages compatibility with the character and type of development existing in the area; benefits neighboring properties by preventing a negative impact on the aesthetic character of the community; preserves woodlands and trees existing at the site to the greatest possible extent; and encourages sound engineering and land development design and construction principles, practices, and techniques.
- (e) Collocation and Siting. An application for a Tower-Based WCF on a new Tower shall not be approved unless the Antenna and Related Equipment for the proposed Tower-Based WCF cannot be accommodated on a Pre-existing Tower or Wireless Support Structure. The applicant shall demonstrate that he or she has contacted the owners of tall structures, buildings, and Towers within a one quarter (1/4) of a mile radius of the site proposed; sought

permission to install a WCF on those structures, buildings, and Towers; and was denied for at least one of the following reasons:

- [1] The proposed Antennas and Related Equipment would exceed the structural capacity of the existing building, structure, or Tower, and its reinforcement could not be accomplished at a reasonable cost.
  - [2] The proposed Antennas and Related Equipment would cause radio frequency interference with other existing equipment located at that existing building, structure, or Tower, and the interference could not be prevented at a reasonable cost.
  - [3] Such existing buildings, structures, or Towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - [4] A commercially reasonable agreement could not be reached with the owner of such building, structure, or Tower.
- (f) Permit Required for Modifications. To the extent permissible under applicable state and federal law, and subject to the requirements of this Chapter, the modification or replacement of an existing Tower-Based WCF, modification or replacement Substantially Changes the overall height of a Tower or expands the area of a Tower compound, shall require conditional use approval. Modification or replacement of an existing Tower-Based WCF, which modification or replacement does not Substantially Change the overall height of the Tower or expand the area of the Tower compound, shall only require applicable zoning and building permits.
- (g) Height. Towers shall be designed at the minimum functional height and shall comply with the height requirements of this chapter, which requirements include the height of the highest-mounted Tower-Based WCF:
- [1] For a single user or systems, up to 100 feet in height;
  - [2] For two users or systems, up to 150 feet in height; and
  - [3] For three or more users or systems, up to 200 feet in height.
- (h) Development Regulations.
- [1] A Tower-Based WCF may be permitted as the sole use on a lot. The minimum distance between the base of the Tower and any adjoining property line or right-of-way line shall

equal not less than the Tower-Based WCF's total height, including any Tower-Based WCFs or Antennas.

- [2] Towers shall be designed structurally, electrically, and in all respects to accommodate the Collocation of additional antennas.
- [3] Towers shall be equipped with a manufacturer-approved anti-climbing device.
- [4] Existing vegetation, trees, and shrubs located within three hundred (300) feet of the base of a Tower shall be preserved to the maximum extent possible.
- [5] Access Road. An access road of at least twenty (20) feet in width, turnaround space, and parking shall be provided to ensure adequate emergency and service access to a Tower and its Tower-Based WCFs. 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 owner and operator of the Tower or the Tower-Based WCF shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
- [6] Parking. If deemed necessary by the Township Board of Supervisors, there shall be two (2) off-street parking spaces for each Tower.
  - (i) Related Equipment Building. Any building or other structure housing Related Equipment shall comply with the required bulk and area requirements of the applicable zoning district for an accessory structure.
  - (j) Maintenance. The following maintenance requirements shall apply:
    - [1] Tower-Based WCFs shall be fully automated and unattended on a daily basis, and shall be visited only for maintenance or emergency repair.
    - [2] Maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.

[3] Maintenance activities shall utilize the best available technology for preventing failures and accidents.

- (k) Historic Properties and Conservancy Lands. Tower-Based WCFs shall not be located on a property, building, or structure that is (a) listed on the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed; (b) listed on any official inventory of Historic Resources maintained by the Township, unless the owner is entitled to such installation by federal rules and regulations; or (c) under a conservation easement.
- (l) Lighting. Towers and Tower-Based WCFs shall not be artificially lighted, except as required by law. If lighting is required, the owner shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, in accordance with lighting requirements in other chapters of the Township Code of Ordinances.
- (m) 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 Township Code, as measured at the lot lines, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (n) Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (o) Pre-Existing Non-Conforming Uses. Pre-existing non-conforming Towers and/or 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 comply with all applicable terms and conditions of these regulations that are necessary to protect public health and safety. Collocation on existing non-conforming Towers is similarly permitted upon conditional use approval, provided that all safety-oriented requirements of this chapter are met.
- (p) FCC License. The owner or operator of a Tower-Based WCF shall submit a copy of the owner or operator's current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (q) Reservation of Rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any Tower or Tower-Based WCF for

numerous factors, including but are not limited to, visual impact, design, and safety standards.

- (r) Insurance. The owner and operator of a Tower and/or Tower-Based WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower and/or Tower-Based WCF.
- (s) Inspection by Township. The Township reserves the right to inspect Towers and Tower-Based WCFs to ensure compliance with the provisions herein and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Tower or Tower-Based WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (t) Annual Inspection Report. A Tower owner shall submit to the Township Engineer proof of an annual inspection of a Tower by an independent professional engineer, as required by the ANSI/EIA/TIA-222-G Code. Based upon the results of such an inspection, the Board of Supervisors may require removal or repair of the Tower or any WCF located on the Tower. In the event the annual inspection referred to above is not submitted to the Township in a timely manner, the landowner, as well as the applicant or other licensed provider of wireless communications service, shall be subject to civil enforcement proceedings, in accordance with Article VIII of this Chapter 390, and such other remedies as are provided by law, including, but not limited to the cost to the Township to have the Tower inspected.
- (u) Fall zone area. Each new Tower shall have a fall zone area equivalent to the height of said Tower, which area shall be measured from the base of the Tower in a 360° radius equal to the height of the same. The applicant shall demonstrate that it has control over the fall zone area, e.g., ownership in fee simple, a leasehold, license, or easement. No residential structures may be located within the fall zone area of a Tower.

G. Small WCFs.

- (1) The following requirements apply only to Small WCFs. To the extent that any provision in this Section 390-71.8G conflicts with the requirements for Non-Tower WCFs described in Section 390-71.8E, the provisions of Section 390-71.8G shall prevail as to Small WCFs.

- (a) Location and Development Standards.
  - [1] Collocated Small WCFs and Small WCFs requiring the installation of a new Wireless Support Structure are permitted by administrative approval from the Township Zoning Officer in all Township zoning districts, subject to the requirements of this Section 390-71.8G and all applicable requirements of the Exeter Township Code of Ordinances.
  - [2] Small WCFs in the public ROW requiring the installation of a new Wireless Support Structure shall not be located in front of any front façade area, as defined in *Small Wireless Communications Facility Design Manual*, Section 390-71.8a.
  - [3] All Small WCFs shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.
- (b) Non-Conforming Wireless Support Structures. Small WCFs shall be permitted to Collocate upon non-conforming Wireless Support Structures, provided that the entire deployment meets the other requirements of this § 390-71.8G. Collocation of WCF upon existing Wireless Support Structures is encouraged even if the Wireless Support Structures is non-conforming as to use within a zoning district. Standard of Care. Small WCFs 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, or to the industry standard applicable to the structure. WCFs 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 damage any property in the Township.
- (c) Historic Buildings. No Small WCF may be located within fifty (50) feet of or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures list maintained by the Township.
- (d) Wind and Ice. Small WCFs 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/TIA-222, as amended), or to the industry standard applicable to the structure.

- (e) Aviation Safety. Small WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (f) Public Safety Communications. Small WCFs shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (g) Radio Frequency Emissions. A 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.
- (h) Time, Place, and Manner. The Township 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.
- (i) Related Equipment. Small WCF and Related 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 Township.
- (j) Graffiti. Graffiti on any Wireless Support Structure or on any Related Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the Township.
- (k) Engineer Seal and Signature. All plans and drawings for a Small WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (l) Design Standards. Small WCFs in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*, Section 390-71.8a. A copy of such shall be kept on file at the Township Engineering Office.
- (m) Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Township, or such longer period as

the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a 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 Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change, or alteration is reasonably necessary under the following circumstances:

- [1] The construction, repair, maintenance, or installation of any Township or other public improvement in the ROW;
  - [2] The operations of the Township or other governmental entity in the ROW;
  - [3] Vacation of a street or road or the release of a utility easement; or
  - [4] An emergency as determined by the Township
- (n) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a Small WCF, as set forth by Resolution of the Township. Such fees shall comply with the applicable requirements of the Federal Communications Commission.
- (o) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township'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 Township. The owner of each Small WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

H. Permitted use on Township Property.

Towers, Tower-Based WCFs, Small WCFs, and Non-Tower WCFs located on property owned in fee or leased by the Township of Exeter are permitted in all zoning districts by conditional use, provided that a license or a lease authorizing such Tower, Tower-Based WCF, or Non-Tower WCF has been approved by the



Township of Exeter. The Township of Exeter shall abide by all deed restrictions and state law when determining whether to lease or license property owned or leased by the Township of Exeter. Tenants and licensees on Township property shall be required to meet all requirements of this chapter and all other applicable laws and ordinances. Nothing in this § 390-71.8H shall limit the Township of Exeter's rights under § 390-4.

I. Zoning Permits.

- (1) General. The following provisions shall govern the issuance of zoning permits for uses governed by this chapter that do not require conditional use approval:
  - (a) Each applicant for a zoning permit shall apply to the Zoning Officer on the Township-issued form, providing the information set forth in § 390-71.8J of this Chapter, to the extent applicable; information specific to the type of proposed deployment; and a nonrefundable fee as established by resolution of the Board of Supervisors to reimburse the Township of Exeter for the costs of reviewing the application.
  - (b) The Zoning Officer shall review the application and determine if the proposed use complies with § 390-71.8J(2)(d) and (e) of this chapter and all other requirements in this Chapter.
  - (c) The Zoning Officer shall respond to each such application within the applicable time period by either approving or denying the application. If the Zoning Officer fails to respond to the applicant within the applicable time period, then the application shall be deemed approved, but only to the extent required by state or federal law. The Zoning Officer shall identify the reasons for any denial in writing by citing to the requirements the application failed to meet and the zoning relief needed to secure a zoning permit.
  - (d) If an application for a zoning permit is denied, the applicant shall file an application for a conditional use permit pursuant to § 390-71.8J and/or an application for any variances required. The shot clock time periods described in this chapter apply to the initial application, either for a zoning permit or for a conditional use or variance.
  - (e) Each applicant for a zoning permit shall provide a rendering of the existing site of the proposed WCF and the proposed changes to the existing site after construction of the WCF.

(2) List of administratively approved uses. The Zoning Officer may approve the following uses and issue a zoning permit after conducting an administrative review:

(a) Any Antenna or Non-Tower WCF which is attached to a Wireless Support Structure may be approved by the Zoning Officer as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided:

[1] The Antenna or Non-Tower WCF and Related Equipment comply with all applicable FCC and FAA regulations;

[2] The Antenna or Non-Tower WCF and Related Equipment comply with all applicable building codes; and

[3] The proposed siting is permitted by this Chapter.

(b) An existing Tower may be modified or rebuilt to taller height to accommodate the Collocation of additional Antennas, subject to the maximum height requirements of the underlying zoning districts, other height requirements of this chapter, and in accordance with state and federal law, and as long as the increase in height is less than 10%, or the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater.

[1] The height change referred to in § 390-71.8I(2)(b) may only occur one time per Tower.

[2] The additional height referred to in § 390-71.8I(2)(b) shall not require an additional distance separation as set forth in § 390-71.8J. The Tower's pre-modification height shall be used to calculate such distance separations.

[3] The Tower's modified or reconstructed height must meet all other height restrictions in this Chapter.

[4] A Tower which is being rebuilt to accommodate the collocation of additional Antennas or Tower-Based WCFs may be moved on site within 50 feet of an existing location.

[a] After the Tower is rebuilt to accommodate Collocation, only one Tower may remain on the site. The decommissioned Tower must be removed within 180 days of the receipt of the final building permit for the new Tower.

[b] A relocated on-site Tower shall continue to be measured from the original Tower location for purposes of calculating separation distances between Towers pursuant to § 390-71.8J(2)(e). The relocation of a Tower hereunder shall in no way be deemed to cause a violation of § 390-71.8J(2)(e), except as described in § 390-71.8I(2)(b)[4][c].

[c] Section 390-71.8I(2)(b)[4][b] does not apply to Tower separation distances to residential units or residentially zoned lands established in § 390-71.8J(2)(e); relocated on-site Towers must comply with these separation distances.

(c) Installing Small WCFs on new Wireless Support Structures and collocating Small WCFs on existing Wireless Support Structures, provided that these deployments meet the requirements for Small WCFs set out in this Chapter.

#### J. Conditional use permits.

(1) General. The following provisions shall govern the issuance of conditional use permits for uses described in this chapter by the combined Board of Supervisors:

(a) In granting a conditional use permit, the Board of Supervisors may impose conditions to the extent the Board of Supervisors concludes such conditions are necessary to minimize any adverse effect of the proposed Antenna or Tower on adjoining properties.

(b) A licensed professional engineer shall certify any information of an engineering nature submitted by the applicant, whether civil, mechanical, or electrical.

(c) An applicant for a conditional use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the governing body to reimburse the Township of Exeter for the reasonable costs of reviewing the application, as more fully described in the fee schedule located on the Township's website and in the Township offices.

(2) Tower-Based WCFs.

(a) Information required. In addition to any information required for application for conditional use permits pursuant to § 390-90 of the Zoning Ordinance, applicants for a conditional use permit for a Tower shall submit the following information:

- [1] A scaled site plan clearly indicating the location, type, and height of the proposed Tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), classification of the site and all properties within the applicable separation distance set forth in § 390-71.8J(2)(e), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed Tower and any other structures, topography, parking, and other information deemed by the Zoning Officer to be necessary to assess compliance with this chapter.
- [2] A legal description of the parent tract and leased parcel (if applicable).
- [3] The setback distance between the proposed Tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- [4] The separation distance from other Towers described in the inventory of existing sites submitted pursuant to § 390-71.8D(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing Tower(s) and owner/operator of the existing Tower(s), if known.
- [5] A landscape plan showing specific landscape materials.
- [6] Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- [7] A description of compliance with §§ 390-71.8D(3)-(7), (9), (10) and (13); § 390-71.8J(2)(d)-(e); and all applicable federal, state and local laws.
- [8] A notarized statement by the applicant as to whether construction of the Tower will accommodate Collocation of additional Antennas for future users.
- [9] Identification of the entities providing the Backhaul Network for the Tower(s) described in the application and other Tower sites owned or operated by the applicant in the municipality.
- [10] A description of the suitability of the use of existing Towers, other structures or alternative technology not requiring the use of Towers or structures to provide the services to be provided through the use of the proposed new Tower.

- [11] A rendering of the existing site of the proposed Tower-Based WCF and the proposed changes to the existing site after construction of the Tower-Based WCF.
- (b) Factors considered in granting conditional use for Towers. In addition to any standards for consideration of conditional use permit applications pursuant to § 390-90, the Board of Supervisors shall consider the following factors in determining whether to issue a conditional use permit:
- [1] Height for the proposed Tower;
  - [2] Proximity of the Tower to residential structures and residential district boundaries;
  - [3] Nature of uses on adjacent and nearby properties;
  - [4] Surrounding topography;
  - [5] Surrounding tree coverage and foliage;
  - [6] Design of the Tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - [7] Proposed ingress and egress; and
  - [8] Availability of suitable existing Towers, other structures, or alternative technologies not requiring the use of Towers or structures, as discussed in § 390-71.8J(2)(c) of this chapter.
- (c) Availability of suitable existing Towers, other structures, or alternative technology. No new Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Supervisors that no existing Tower, Wireless Support Structure, or alternative technology that does not require the use of Towers or structures can accommodate the applicant's proposed Antennas or WCF. An applicant shall submit information related to the availability of suitable existing Towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing Tower, Wireless Support Structure, or alternative technology can accommodate the applicant's proposed Antenna might consist of any of the following:
- [1] No existing Towers or Wireless Support Structures are located within the geographic area which meet applicant's engineering requirements.

- [2] Existing Towers or Wireless Support Structures are not of sufficient height to meet the applicant's engineering requirements.
  - [3] Existing Towers or Wireless Support Structures do not have sufficient structural strength to support the applicant's proposed Antenna and related equipment.
  - [4] The applicant's proposed Antenna or WCF would cause electromagnetic interference with the Antennas on the existing Towers or Wireless Support Structures, or the Antennas on the existing Towers or Wireless Support Structures would cause interference with the applicant's approved Antenna or WCF.
  - [5] The fees, costs, or contractual provisions required by the owner in order to share an existing Tower or Wireless Support Structure or to adapt an existing Tower or Wireless Support Structure for sharing are unreasonable. Costs exceeding new Tower development are presumed to be unreasonable.
  - [6] The applicant demonstrates that there are other limiting factors that render existing Towers and Wireless Support Structures unsuitable.
  - [7] The applicant demonstrates that an alternative technology that does not require the use of Towers or Wireless Support Structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new Tower or Antenna development shall not be presumed to render the technology unsuitable.
- (d) **Setbacks.** Each Tower-Based WCF shall have a setback equal to its height or the setback requirement of the applicable zoning district, whichever is greater. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (e) **Separation.** The following separation requirements shall apply to all Towers and Antennas for which a conditional use or special exception is required:
- [1] Separation from off-site uses/designated areas.
    - [a] Tower separation shall be measured from the base of the Tower to the lot line of the off-site uses and/or

designated areas as specified in Table 1, except as otherwise provided in Table 1.

- [b] Separation requirements for Towers shall comply with the minimum standards established in Table 1.

**Table 1**

<b>Off-Site Uses/Designated Area</b>	<b>Separation Distance (feet)</b>
Single-family detached dwelling, single-family semidetached dwelling, two-family detached dwelling, mobile home, manufactured home	200
Vacant land zoned for single-family detached dwellings or single-family semidetached dwellings,, which is either planned or has unexpired, preliminary subdivision plan approval	200
Vacant unplatted residentially zoned lands	100
Apartment buildings and townhouses	100
Nonresidentially zoned lands or nonresidential uses	None: only yard setbacks apply

- (f) Security fencing. Towers shall be enclosed by opaque, non-chain link security fencing not less than eight (8) feet in height and shall also be equipped with an appropriate anticlimbing device.
- (g) Landscaping. The following requirements shall govern the landscaping surrounding Towers for which a conditional use permit is required.

[1] Landscaping shall be required to screen as much of a newly constructed Tower and Related Equipment as possible. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view year round of the Tower compound from property used for residences. The Board of Supervisors may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping, if, in the Board's discretion, the approach achieves the aesthetic and screening goals of this chapter. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

[2] Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In

some cases, such as Towers sited in large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

K. Buildings or other equipment storage.

- (1) Non-Tower WCFs. The equipment or structure used in association with Non-Tower WCFs that are not also Small WCFs shall comply with the following:
  - (a) The cabinet or structure shall not contain more than 250 square feet of gross floor area or be more than 12 feet in height. In addition, for buildings and Wireless Support Structures that are less than 65 feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 12 feet in height, shall be located on the ground or in the Wireless Support Structure and shall not be located on the roof of the building or on top of the Wireless Support Structure.
  - (b) If the Related Equipment structure is located on the roof of a building, the area of the Related Equipment structure and other equipment shall not occupy more than 10% of the roof area.
  - (c) Related Equipment buildings or cabinets shall comply with applicable building codes.
- (2) Small WCFs. The Related Equipment cabinet or structure used in association with Small Wireless Communications Facilities shall not exceed the limitations described in the definition of Small WCF in § 390-71.8B.
- (3) Tower-Based WCFs. The related unmanned equipment structure shall not contain more than 250 square feet of gross floor area or be more than 12 feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.
- (4) Modification of building size requirements. The Board of Supervisors may modify the requirements of § 390-71.8K(1) through (3).

L. Removal of abandoned Antennas, WCFs, Towers, Wireless Support Structures, and Related Equipment.

- (1) Any Antenna, WCF, Tower, and/or Related Equipment that is not operated for a continuous period of six (6) months shall be considered abandoned and must be removed. This provision does not apply to Wireless Support Structures that have a dual use, e.g., a silo, building, light pole, power line, etc., when the other use of the Wireless Support Structure has not been abandoned; however, the abandoned WCF, Antennas, and/or Related Equipment associated with the Wireless Support Structure shall require



removal in accordance with this section. If there are two or more users of a single Tower, Wireless Support Structure, and/or Related Equipment, then this provision shall not become effective until the same are abandoned by all users.

- (2) Should the abandoned Antenna, WCF, Tower, and/or Related Equipment not be removed after the six (6) month period, the Township may notify the record parcel owner and the owner of such Antenna, WCF, Wireless Support Structure, Tower, and/or Related Equipment that the Township shall remove the abandoned equipment and/or structures following a ninety (90) day notice period.
- (3) The owner of the abandoned Antenna, WCF, Tower, and/or Related Equipment and the owner of the underlying parcel shall be jointly and severally liable for all costs associated with such removal, including, but not limited to, legal fees incurred.
- (4) Nothing in this section imposes on the Township of Exeter a duty to inspect Antenna, WCF, Wireless Support Structure, Tower, and/or Related Equipment to determine whether they are in use.

M. Nonconforming uses.

- (1) Pre-existing Towers. Pre-existing Towers shall be allowed to continue their usage as they presently exist. Routine maintenance (excluding replacement with a new Tower of like construction and height) shall be permitted on such Pre-existing Towers.
- (2) Construction other than routine maintenance on a Pre-existing Tower. Construction other than routine maintenance on a Pre-existing Tower, including, but not limited to replacement of Pre-existing Tower with a new Tower of like construction and height, significant repairs, and/or Substantial Changes must comply with the requirements of this chapter.
- (3) Rebuilding damaged or destroyed nonconforming Towers, Wireless Support Structures, WCFs, or Antennas. Notwithstanding § 390-71.8J, bona fide nonconforming Towers, WCFs, or Antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a conditional use permit and without having to meet the separation requirements specified in § 390-71.8J(2)(e). The type, height, and location of the Tower on site shall be of the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with the then-applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the Tower, WCF, or Antenna shall be deemed abandoned as specified in § 390-71.8J.

N. Compliance with Township Code.

- (1) Notwithstanding anything to the contrary in this Chapter, each applicant for a building permit, electrical permit, zoning permit, conditional use, or variance under this chapter shall meet any and all requirements of the Township's Subdivision and Land Development Ordinance, and any other applicable Township ordinance or regulation.

**SECTION 2.** All references to "Chapter 344, Telecommunications," in the Exeter Township Zoning Ordinance are hereby removed and replaced with "Chapter 390, Section 390-71.8, Telecommunications."

**SECTION 3. REPEALER:** All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are specifically repealed.

**SECTION 4. SEVERANCE CLAUSE:** Should any section, paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of said Ordinance shall not be affected thereby, and shall remain in full force and effect.

**SECTION 5.** In all other respects, the provisions of the Code of the Township of Exeter, as amended, shall remain in full force and effect.

***ENACTED AND ORDAINED*** into an Ordinance this \_\_\_\_ day of \_\_\_\_\_, 2020.

**EXETER TOWNSHIP  
BOARD OF SUPERVISORS**

\_\_\_\_\_  
David G. Speece, Jr., Chairperson

Attest:

\_\_\_\_\_  
Secretary