

**MUNICIPALITY OF MONROEVILLE
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2635

AN ORDINANCE OF THE MUNICIPALITY OF MONROEVILLE, ALLEGHENY COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF MONROEVILLE ZONING ORDINANCE NO. 1443, AS AMENDED, PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT, PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF COMMERCIAL COMMUNICATION TOWERS AND COMMERCIAL COMMUNICATION ANTENNAS; 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 Municipality of Monroeville, Allegheny County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I. Repealer of Certain Definitions and Provisions

- A. The definitions of “Commercial Communication Antenna” and “Commercial Communication Tower” are hereby repealed and removed as definitions from Section 601 of Ordinance No. 1443, as amended.

SECTION II. Amendment to Section 601, Definitions of Ordinance No. 1443, as amended.

Section 601 of Ordinance No. 1443, as amended is hereby amended to include the following definitions to Section 601:

1. *Antenna* — any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include Commercial Communication Towers as defined below.
2. *Co-location*—the mounting of one or more WCFs, including antennae, on an existing Commercial Communication Tower, or on any structure that already supports at least one Commercial Communication Antenna.

3. *Distributed Antenna Systems (DAS)*—network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.
4. *Emergency*—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.
5. *FCC*—Federal Communications Commission.
6. *Height of a Commercial Communication Tower* - the vertical distance measured from the ground level, including any base pad, to the highest point on a Commercial Communication Tower, including antennae mounted on the tower and any other appurtenances.
7. *Monopole*—a WCF or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connecting appurtenances.
8. *Commercial Communication Antenna*—all non-tower Wireless Communications Facilities, including but not limited to, antennae and Related Equipment. Commercial Communication Antennas shall not include support structures for antennae or any Related Equipment that is mounted to the ground or at ground-level.
9. *Related Equipment*—any piece of equipment related to, incidental to, or necessary for, the operation of a Commercial Communication Tower or Commercial Communication Antenna. By way of illustration, not limitation, Related Equipment includes generators and base stations.
10. *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.
11. *Substantially Change 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: (1) for Communications Tower 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; (2) for Communications Tower outside the public rights-of-way, it

protrudes from the edge of the WCF by more than 20 feet, or more than the width of the Tower structures are the level off the appurtenance, whichever is greater; for those Communications Tower in the public rights-of-way, it protrudes from the edge of the structure by more than 6 feet; (3) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; (4) it entails any excavation of deployment outside the current site of the Communications Tower; or (6) it does not comply with conditions associated with prior approval of construction or modification of the Communications Tower unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.

12. *Commercial Communication Tower*—any structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be Commercial Communication Towers.
13. *WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)*
14. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.
15. *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.
16. *Wireless Communications Facility Applicant (WCF Applicant)*—any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Municipality owned land or property.
17. *Wireless Support Structure*—a freestanding structure, such as a Commercial Communication Tower or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Municipality.

SECTION VI. REPEALER AND ADOPTION OF NEW WIRELESS COMMUNICATIONS FACILILIES PROVISIONS

- A. The terms, conditions, and provisions of Section 401.56(a-h) (“Commercial Communication Antennas”) of the Monroeville Municipality Zoning Ordinance are hereby REPEALED in their entirety.

SECTION VI. REPEALER AND ADOPTION OF NEW WIRELESS COMMUNICATIONS FACILILIES PROVISIONS

- A. The terms, conditions, and provisions of Section 401.55(a-h) (“Commercial Communication Towers”) of the Monroeville Municipality Zoning Ordinance are hereby

REPEALED and replaced in their entirety with a new Section 401.55 entitled and provided for as follows:

§ 401.55 Wireless Communications Facilities

A. Purposes and Findings of Fact.

(1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of Wireless Communications Facilities in Monroeville Municipality (referred to herein as the “Municipality”). While the Municipality recognizes the importance of Wireless Communications Facilities in providing high quality communications service to its residents and businesses, the Municipality 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.

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

- a. Accommodate the need for Wireless Communications Facilities while regulating their location and number so as to ensure the provision of necessary services;
- b. Provide for the managed development of Wireless Communications Facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Municipality residents and wireless carriers in accordance with federal and state laws and regulations;
- c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both Commercial Communication Towers and Commercial Communication Antennas in the Municipality, including facilities both inside and outside the public rights-of-way;
- d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, and other Wireless Communications Facilities;
- e. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that competing providers of wireless communications services co-locate their Commercial Communication Antenna and related facilities on existing towers;
- f. Promote the health, safety and welfare of the Municipality's residents.

B. General and Specific Requirements for Commercial Communication Antennas

(1) The following regulations shall apply to all Commercial Communication Antennas:

- a. Permitted by Conditional Use subject to regulations. Commercial Communication Antennas shall be located on municipally owned poles and traffic lights. If such placement is not possible, Commercial Communication Antennas are permitted by Conditional Use in all zones subject to the restrictions and conditions prescribed below and subject to applicable permitting by the Municipality.
- b. Non-Conforming Wireless Support Structures. Commercial Communication Antennas shall be permitted to co-locate upon non-conforming Commercial Communication Towers and other non-conforming structures. Co-location of WCF upon existing Commercial Communication Towers is encouraged even if the Commercial Communication Towers is non-conforming as to use within a zoning district.
- c. Standard of care. Any Commercial Communication Antennas 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 Municipality.
- d. Wind. All Commercial Communication Antennas structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended).
- e. Aviation safety. Commercial Communication Antennas shall comply with all federal and state laws and regulations concerning aviation safety.
- f. Public safety communications. Commercial Communication Antennas 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 Commercial Communication Antennas shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- h. Removal. In the event that use of a Commercial Communication Antennas is discontinued, the owner shall provide written notice to the Municipality of its

intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:

- (1) All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Municipality.
 - (2) If the WCF or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Municipality, the WCF and/or associated facilities and equipment may be removed by the Municipality and the cost of removal assessed against the owner of the WCF.
- i. Insurance. Each Person that owns or operates a Commercial Communication Antenna shall provide the Municipality with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Commercial Communication Antenna.
 - j. Indemnification. Each person that owns or operates a Commercial Communication Antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Municipality, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Commercial Communication Antenna. Each person that owns or operates a Commercial Communication Antenna shall defend any actions or proceedings against the Municipality 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 Commercial Communication Antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
 - k. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - (1) The Commercial Communication Antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Municipality's residents.

- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (2) The following regulations shall apply to all collocated Commercial Communication Antennas that do not Substantially Change the Physical Dimensions of the Wireless Support Structure to which they are attached, or otherwise fall under the Pennsylvania Wireless Broadband Collocation Act
- a. Permit required. WCF Applicants proposing the modification of an existing Commercial Communication Tower shall obtain a building permit from the Municipality. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Municipality in accordance with applicable permit policies and procedures.
 - b. Timing of approval for applications that fall under the WBCA. Within thirty (30) calendar days of the date that an application for a Commercial Communication Antenna is filed with the Municipality, the Municipality shall notify the WCF Applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Municipality shall make its final decision on whether to approve the application and shall advise the WCF Applicant in writing of such decision. The Municipality shall notify the WCF Applicant as to completeness of the WCF Application within thirty (30) days of receipt.
 - c. Related Equipment. Ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use or zoned residential.
 - d. Permit fees. The Municipality may assess appropriate and reasonable permit fees directly related to the Municipality's actual costs in reviewing and processing the application for approval of a Commercial Communication Antenna or \$1,000, whichever is less.
- (3) The following regulations shall apply to all Commercial Communication Antennas that do Substantially Change the Wireless Support Structure to which they are attached, or that otherwise do not fall under the Pennsylvania Wireless Broadband Collocation Act:
- a. Prohibited on Certain Structures. No Commercial Communication Antenna shall be located on single-family detached residences, single-family attached residences, or any residential accessory structure.
 - b. Conditional Use Required. Any WCF Applicant proposing the construction of a new Commercial Communication Antenna, or the modification of an existing Commercial Communication Antenna, shall first obtain a Conditional Use from the Municipality. New constructions, modifications, and replacements that do fall

under the WBCA shall be not be subject to the Conditional Use process. The Conditional Use application shall demonstrate that the proposed facility complies with all applicable provisions in the Monroeville Municipality Zoning Ordinance.

- c. Historic Buildings. No Commercial Communication Antenna may be located upon any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is listed on the official historic structures and/or historic districts list maintained by the Municipality.
- d. Retention of Experts. The Municipality may hire any consultant(s) and/or expert(s) necessary to assist the Municipality in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Municipality for all costs of the Municipality's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- e. Permit Fees. The Municipality may assess appropriate and reasonable permit fees directly related to the Municipality's actual costs in reviewing and processing the application for approval of a Commercial Communication Antenna, as well as related inspection, monitoring and related costs.
- f. Development Regulations. Commercial Communication Antennas shall be co-located on existing Wireless Support Structures, such as existing buildings or Commercial Communication Towers, subject to the following conditions:
 - (1) The total height of any Wireless Support Structure and mounted WCF shall not exceed twenty (20) feet above the maximum height permitted in the underlying zoning district, unless the WCF Applicant applies for, and subsequently obtains, a variance.
 - (2) In accordance with industry standards, all Commercial Communication Antenna Applicants must submit documentation to the Municipality justifying the total height of the Commercial Communication Antenna. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (3) If the WCF Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district, and landscaping shall be required to screen as much of the equipment building as possible. An evergreen screen shall surround the site. The evergreen screen shall be a minimum height of six (6) feet at planting.
- g. A security fence with a minimum height of ten (10) 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.

- h. Non-commercial usage exemption. Municipal residents utilizing satellite dishes and antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the Zoning Ordinance.
- i. Design Regulations.
 - (1) Commercial Communication Antennas shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Municipality.
 - (2) Omnidirectional or whip communications antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter.
 - (3) Directional or panel communications antennas shall not exceed eight (8) feet in height or three (3) feet in width.
 - (4) Cylinder-type antennas shall not exceed ten (10) feet in length and not exceed twelve (12) inches in diameter and shall be of a color that is identical or similar to the color of the supporting structure to make the antenna and any related accessory equipment visually unobtrusive.
 - (5) Satellite and microwave dishes shall not exceed ten (10) feet in diameter. Dish antennas greater than three (3) feet in diameter shall be screened with an appropriate architectural treatment that is compatible with or integral to the architecture or building to which they are attached. This screening requirement shall not apply to dishes located upon towers.
- j. Removal, Replacement and Modification.
 - (1) The removal and replacement of Commercial Communication Antennas and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not Substantially Change the overall size of the WCF or the numbers of antennae.
 - (2) Any material modification to a WCF shall require notice to be provided to the Municipality, and possible supplemental permit approval to the original permit or authorization.
- k. Inspection. The Municipality reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other

provisions found within the Municipality Code or state or federal law. The Municipality 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.

(4) Regulations Applicable to all Commercial Communication Antennas located in the Public Rights-of-Way.

In addition to the Commercial Communication Antenna provisions listed in Section B of 401.55, the following regulations shall apply to Commercial Communication Antennas located in the public rights-of-way:

- a. Co-location. Commercial Communication Antennas in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. If co-location is not technologically or economically feasible, the WCF Applicant shall locate its Commercial Communication Antenna on existing poles or freestanding structures that do not already act as Wireless Support Structures with the Municipality's approval.
- b. Design Requirements:
 - (1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - (2) Antenna and Related Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- c. Time, Place and Manner. The Municipality shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Commercial Communication Antennas in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Municipality and the requirements of the Public Utility Code.
- d. Equipment Location. Commercial Communication Antennas and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Municipality. In addition:

- (1) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within an easement extending onto a privately-owned lot;
 - (2) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Municipality.
 - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Municipality.
 - (4) Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner.
 - (5) Any proposed underground vault related to Commercial Communication Antennas shall be reviewed and approved by the Municipality.
- e. Relocation or Removal of Facilities. Within two (2) months following written notice from the Municipality, or such longer period as the Municipality determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Municipality, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (1) The construction, repair, maintenance or installation of any Municipality or other public improvement in the right-of-way;
 - (2) The operations of the Municipality or other governmental entity in the Right-of-Way;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An Emergency as determined by the Municipality.

C. General and Specific Requirements for All Commercial Communication Towers.

- (1) The following regulations shall apply to all Commercial Communication Towers, excluding any Commercial Communication Tower that is less than seventy (70) feet in height and owned and operated by a federally licensed amateur radio status operator.
 - a. Standard of Care. Any Commercial Communication Towers shall be designed, constructed, operated, maintained, repaired, modified and removed in strict

compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the 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 Commercial Communication Towers 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 Municipality.

- b. Notice. Upon submission of an application for a Commercial Communication Tower and the scheduling of the public hearing upon the application, the WCF Applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The WCF Applicant shall provide proof of the notification to the Municipality.
- c. Conditional Use Authorization Required. Commercial Communication Tower are permitted in C-2 Business Commercial, C-3 Commercial, M-1 Industrial, and M-2 Planned Industrial Districts by Conditional Use and at a height necessary to satisfy their function in the WCF Applicant's wireless communications system. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF Applicant shall demonstrate that the antenna/tower/pole for the Commercial Communication Tower is the minimum height necessary for the service area.
 - (1) Prior to Council's approval of a Conditional Use authorizing the construction and installation of Commercial Communication Tower, it shall be incumbent upon the WCF Applicant for such Conditional Use approval to prove to the reasonable satisfaction of the Council that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment such as redoes, repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF Applicant shall further demonstrate that the proposed Commercial Communication Tower must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable alternative location exists.
 - (2) The Conditional Use application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the

WCF Applicant in determining the need for the proposed site and installation.

- (3) The Conditional Use application shall be accompanied by documentation demonstrating that the proposed Commercial Communication Tower complies with all state and federal laws and regulations concerning aviation safety.
 - (4) Where the Commercial Communication Tower is located on a property with another principal use, the WCF Applicant shall present documentation to the Municipal Council that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.
 - (5) The Conditional Use application shall also be accompanied by documentation demonstrating that the proposed Commercial Communication Tower complies with all applicable provisions in this section.
- d. Engineer Inspection. Prior to the Municipality's issuance of a permit authorizing construction and erection of a Commercial Communication Tower, a structural engineer registered in Pennsylvania shall issue to the Municipality a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the conditional hearings, or at a minimum, be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.
 - e. Visual Appearance and Land Use Compatibility. Commercial Communication Tower shall employ Stealth Technology which may include the tower portion to be painted silver or another color approved by the Municipal Council, or shall have a galvanized finish. All Commercial Communication Towers and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Municipal Council shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

- f. Co-location and siting. An application for a new Commercial Communication Tower shall demonstrate that the proposed Commercial Communication Tower cannot be accommodated on an existing or approved structure or building, or sited on land owned and maintained by the Municipality. The Municipal Council may deny an application to construct a new Commercial Communication Tower if the WCF Applicant has not made a good faith effort to mount the Commercial Communication antenna(s) on an existing structure. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter () of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and towers and was denied for one of the following reasons:
- (1) The proposed antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - (2) The proposed antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - (3) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- g. Permit Required for Modifications. To the extent permissible under applicable state and federal law, any WCF Applicant proposing the modification of an existing Commercial Communication Tower, which increases the overall height of such WCF, shall first obtain a building permit from the Municipality. Non-routine modifications shall be prohibited without such permit.
- h. Gap in Coverage. A WCF Applicant for a Commercial Communication Tower must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Municipality's decision on an application for approval of Commercial Communication Tower.
- i. Additional Antennae. As a condition of approval for all Commercial Communication Tower, the WCF Applicant shall provide the Municipality with a written commitment that it will allow other service providers to co-locate antennae on Commercial Communication Towers where technically and economically feasible. The owner of a Commercial Communication Tower shall

not install any additional antennae without obtaining the prior written approval of the Municipality.

- j. Wind. Any Commercial Communication Tower structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222), as amended.
- k. Height. Any Commercial Communication Tower shall be designed at the minimum functional height. In all Zoning Districts the maximum height of any new Commercial Communication Tower shall be two hundred (200) feet. An existing tower may be modified or extended to a height not to exceed a total height of two hundred fifteen (215) feet, to accommodate the collocation of additional communications antennas.
- l. Related Equipment. Either a one single-story wireless communications equipment building not exceeding 500 square feet in area, or up to five metal boxes placed on a concrete pad not exceeding 10 feet by 20 feet in area housing the receiving and transmitting equipment, may be located on the site for each unrelated company sharing Commercial Communication Antenna space on the Commercial Communication Tower.
- m. Public Safety Communications. No Commercial Communication Tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- n. Maintenance. The following maintenance requirements shall apply:
 - (1) Any Commercial Communication Tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Municipality's residents, and utilize the best available technology for preventing failures and accidents.
- o. Radio Frequency Emissions. A Commercial Communication Tower shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

- p. Historic Buildings or Districts. A Commercial Communication Tower shall not be located upon a property, and/or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Municipality.
- q. Signs. All Commercial Communication Towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- r. Lighting. No Commercial Communication Tower shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Municipality Manager.
- s. Noise. Commercial Communication Towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Municipality Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- t. Aviation Safety. Commercial Communication Towers shall comply with all federal and state laws and regulations concerning aviation safety.
- u. Retention of Experts. The Municipality may hire any consultant and/or expert necessary to assist the Municipality in reviewing and evaluating the application for approval of the Commercial Communication Tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Municipality for all costs of the Municipality's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- v. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Commercial Communication Tower is filed with the Municipality, the Municipality shall notify the WCF Applicant in writing of any information that may be required to complete such application. All applications for Commercial Communication Towers shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Commercial Communication Towers and the Municipality shall advise the WCF Applicant in writing of its decision. If additional information was requested by the Municipality to complete an application, the time required by the WCF

Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.

- w. **Non-Conforming Uses.** Non-conforming Commercial Communication Towers which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this section.
- x. **Removal.** In the event that use of a Commercial Communication Tower is planned to be discontinued, the owner shall provide written notice to the Municipality of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
 - (1) All unused or abandoned Commercial Communication Towers 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 Municipality.
 - (2) 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 Municipality, the WCF and accessory facilities and equipment may be removed by the Municipality and the cost of removal assessed against the owner of the WCF.
 - (3) Any unused portions of Commercial Communication Towers, including antennae, shall be removed within six (6) months of the time of cessation of operations. The Municipality must approve all replacements of portions of a Commercial Communication Tower previously removed.
- y. **Permit Fees.** The Municipality may assess appropriate and reasonable permit fees directly related to the Municipality's actual costs in reviewing and processing the application for approval of a Commercial Communication Tower, as well as related inspection, monitoring, and related costs.
- z. **FCC License.** Each person that owns or operates a Commercial Communication Tower over forty (40) feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- aa. **Insurance.** Each person that owns or operates a Commercial Communication Tower greater than forty (40) feet in height shall provide the Municipality 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 Commercial Communication Tower. Each Person that owns or operates a Commercial

Communication Tower forty (40) feet or less in height shall provide the Municipality with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each Commercial Communication Tower.

bb. Indemnification. Each person that owns or operates a Commercial Communication Tower shall, at its sole cost and expense, indemnify, defend and hold harmless the Municipality, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Commercial Communication Tower. Each person that owns or operates a Commercial Communication Tower shall defend any actions or proceedings against the Municipality in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of Commercial Communication Tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

cc. Engineer signature. All plans and drawings for a Commercial Communication Tower shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

dd. Financial security. Prior to receipt of a zoning permit for the construction or placement of a Commercial Communication Tower, the WCF Applicant shall provide to the Municipality financial security sufficient to guarantee the removal of the Commercial Communication Tower. Said financial security shall remain in place until the Commercial Communication Tower is removed.

(2) The following regulations shall apply to Commercial Communication Towers located outside the Public Rights-of-Way:

a. Development Regulations.

(1) Commercial Communication Tower shall not be located in, or within seventy-five (75) feet of, an area in which utilities are primarily located underground.

(2) Commercial Communication Towers are permitted by Conditional Use, outside the public Rights-of-Way, subject to the prohibition in 359-33(C)(2)(1), as well as in 359-33(C)(1)(c), in the following zoning

districts:

- (a) C-2 Business Commercial
 - (b) C-3 Commercial
 - (c) M-1 Industrial
 - (d) M-2 Planned Industrial
- (3) Sole use on a lot. A Commercial Communication Tower shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in the Municipality Zoning Code.
- (4) Combined with another use. A Commercial Communication Tower may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
- (a) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.
 - (b) Minimum lot area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Commercial Communication Tower and guy wires, the equipment building, security fence, and buffer planting if the proposed WCF is greater than forty (40) feet in height.
 - (c) Minimum setbacks. The minimum distance between the base of a Commercial Communication Tower and any adjoining property line or street right-of-way line shall be equal to 100 of the height of the Commercial Communication Tower or the minimum front yard setback of the underlying zoning district, whichever is greatest. Where the site on which a Commercial Communication Tower is proposed to be located is contiguous to an educational use, child day-care facility, or agriculture or residential use, the minimum distance between the base of a Commercial Communication Tower and any such adjoining uses shall equal two hundred fifty (250) feet, regardless of the height of the Commercial Communication Tower, unless it is demonstrated to the reasonable satisfaction of the Council that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants.

b. Design Regulations.

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

c. Surrounding Environs.

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

d. Fence/Screen.

- (1) A security fence with a minimum height of ten (10) feet shall completely surround any Commercial Communication Tower greater than forty (40) feet in height, as well as guy wires, or any building housing WCF equipment.
- (2) Landscaping shall be required to screen as much of a newly constructed Commercial Communication Tower as possible. The Municipal Council may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Council, they achieve the same degree of screening. Existing vegetation shall be preserved to the maximum extent possible.
 - (a) An evergreen screen shall be required to surround the site. The evergreen screen shall be a minimum height of six (6) feet at planting.

- e. Accessory Equipment.
 - (1) Ground-mounted Related Equipment associated to, or connected with, a Commercial Communication Tower shall be placed underground or screened from public view using Stealth Technologies, as described above.
 - (2) All Related Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
 - f. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Commercial Communication Tower. The access road shall be a dust-free all-weather surface for its entire length. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Municipality that the property owner has granted an easement for the proposed facility.
 - g. Parking. For each Commercial Communication Tower greater than forty (40) feet in height, there shall be two off-street parking spaces.
 - h. Inspection. The Municipality reserves the right to inspect any Commercial Communication Tower to ensure compliance with the Zoning Ordinance and any other provisions found within the Municipality Code or state or federal law. The Municipality and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (3) The following regulations shall apply to Commercial Communication Towers located in the Public Rights-of-Way.
- a. Location and development standards.
 - (1) Commercial Communication Tower in the ROW shall not exceed forty (40) feet in height and are prohibited in areas in which all utilities are located underground.
 - (2) Commercial Communication Tower shall not be located in the front façade area of any structure.
 - (3) Commercial Communication Tower shall be permitted along certain collector roads and arterial roads throughout the Municipality, regardless of

the underlying zoning district. A listing of such roads is adopted via Resolution of Municipal Council on an annual basis.

- b. Time, Place and Manner. The Municipality shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Commercial Communication Tower in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Municipality and the requirements of the Public Utility Code.
- c. Equipment Location. Commercial Communication Tower and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Municipality. In addition:
 - (1) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - (2) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Municipality.
 - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Municipality.
 - (4) Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner
 - (5) Any underground vaults related to Commercial Communication Towers shall be reviewed and approved by the Municipality.
- d. Design regulations.
 - (1) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Municipality.
 - (2) Commercial Communication Tower in the public ROW shall not exceed forty (40) feet in height.
 - (3) To the extent permissible under state and federal law, any height extensions to an existing Commercial Communication Tower shall require

prior approval of the Municipality, and shall not increase the overall height of the Commercial Communication Tower to more than forty (40) feet.

- (4) Any proposed Commercial Communication Tower shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.
- e. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Municipality, or such longer period as the Municipality determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of Commercial Communication Tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Municipality, 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 Municipality or other public improvement in the Right-of-Way;
 - (2) The operations of the Municipality or other governmental entity in the right-of-way;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An emergency as determined by the Municipality.
- f. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Commercial Communication Tower in the ROW is subject to the Municipality'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 Municipality'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 Municipality. The owner of each Commercial Communication Tower shall pay an annual fee to the Municipality to compensate the Municipality for the Municipality's costs incurred in connection with the activities described above.

SECTION VII. Miscellaneous

- A. Police powers. The Municipality, 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 Municipality under applicable federal, state and local laws and regulations.

B. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.

C. Effective Date. This Ordinance shall become effective thirty (30) days after enactment by the Municipal Council of Monroeville Municipality.

ENACTED AND ORDAINED this 8th day of December, 2015.

ATTEST:

MUNICIPALITY OF MONROEVILLE


Timothy J. Little
Municipal Manager


Gregory Erosenko
Mayor

ENTERED INTO LEGAL BOOK: December 18, 2015