

**TOWNSHIP OF KILBUCK  
ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AMENDING THE TOWNSHIP OF KILBUCK ZONING ORDINANCE, CODE OF ORDINANCES, SECTION 215-35, COMMUNICATIONS TOWERS AND ANTENNAS, TO ESTABLISH REQUIREMENTS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED AND NON-TOWER BASED WIRELESS COMMUNICATIONS FACILITIES

WHEREAS, the Board of Supervisors of the Township of Kilbuck desires to update and amend the Township Zoning Ordinance to regulate the location, placement, construction and maintenance of wireless communications facilities in the Township to protect residential and commercial areas and land uses from potential adverse impacts of such facilities, while allowing for quick, effective and efficient wireless services within the Township; and

WHEREAS, the Kilbuck Township Planning Commission has reviewed and recommended the proposed ordinance for adoption; and

WHEREAS, the required notice has been given to Allegheny County Economic Development regarding the proposed ordinance.

I. NOW THEREFORE, the Board of Supervisors of the Township of Kilbuck does hereby ordain that Article IV, Section 215-35, Communications Towers and Antennas, is revised to read, in its entirety, as follows:

Article IV  
Supplementary Regulations

**§ 215.35. Communications Towers and Antennas**

**§ 215-35.1 Purpose.**

The purposes of this ordinance include a desire to establish reliable standards for the siting, design, permitting, construction, operation, inspection, maintenance, repair, modification, removal and replacement of wireless communications facilities in recognition of the federal

Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); the federal Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) Pub. L. No. 112-96, 126 Stat. 156 (2012), and FCC regulations promulgated thereunder by the Federal Communications Commission (FCC), including the FCC's Report and Order of October 21, 2014, FCC 14-153 (rel. Oct. 21, 2014); and FCC Declaratory Ruling and Third Report and Order, WT Docket 17-79, WC Docket 17-18, adopted September 26, released September 27, 2018; and the Pennsylvania Wireless Broadband Collocation Act (Act 191 of 2012), 53 P.S. § 11702.1 *et seq.* in the Township of Kilbuck ("Township). Moreover, the Township desires to plan and accommodate for the managed deployment of infrastructure that is necessary to accommodate the wireless communications needs of the Township's residents, businesses and emergency service providers. While the Township recognizes the benefit of wireless communications facilities in providing high quality communications service and enhancement to its residents, businesses and emergency service providers, the Township also recognizes that it has an obligation to protect public safety through the standards set forth in the following provisions.

### **§ 215-35.2 Definitions.**

The definitions found herein apply only to Wireless Communications Facilities and the regulations found in this Article.

**Accessory Equipment:** Any equipment serving or being used in conjunction with a wireless telecommunications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar equipment.<sup>1</sup>

**Antenna:** Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services. An antenna shall not include private residence-mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

**Base Station:** A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

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<sup>1</sup> 53 P.S. § 11702.2.

(i) 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 (i.e., wifi) and fixed wireless services (i.e. point to point microwave transmissions) such as microwave backhaul.

(ii) 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).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the Township under this subpart, supports or houses equipment described in sub-paragraphs (i) and (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) 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 sub-paragraphs (i) or (ii) of this section.<sup>2</sup>

**Collocation:** The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.<sup>3</sup>

**Distributed Antenna System (DAS):** A small network of antennas that are connected to a common source that provides coverage in a building or a small geographic area.

**Eligible Facilities Request:** Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.<sup>4</sup>

**Eligible Support Structure:** Any tower or base station, provided that it is existing at the time the relevant application is filed.

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<sup>2</sup> 47 C.F.R. § 1.40001(b)(1).

<sup>3</sup> *Id.* at § 1.40001(b)(2).

<sup>4</sup> *Id.* at § 1.40001(b)(3).

**Equipment Compound:** An area surrounding or adjacent to a wireless support structure within which base stations, power supplies or accessory equipment are located.<sup>5</sup>

**Ft. Worth Attachment:** A non-freestanding pole which is attached to an electrical transmission tower which is used to support antennas and accessory equipment and which is anchored to the ground and obtains lateral bracing by direct attachment to the electrical transmission tower.

**Minimum Functional Height:** Minimum height necessary for a WCF to function satisfactorily.

**Modification:** The improvement, upgrade or expansion of existing wireless telecommunications facilities or base stations on an existing wireless support structure or the improvement, upgrade or expansion of the wireless telecommunication facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.<sup>6</sup> The replacement of a pole is not a modification.

**Monopole:** A tower which consists of a single pole structure without any guy wires, designed and erected on the ground or on top of a structure, to support communications antennas and connect appurtenances.

**Replacement:** The replacement of existing wireless telecommunications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless telecommunications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.<sup>7</sup>

**Right-of-Way (ROW):** The surface of and space above and below any real property in the municipality in which the federal government, Commonwealth, municipality or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the federal government,

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<sup>5</sup> 53 P.S. § 11702.2.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

Commonwealth, municipality or municipal authority, and any non-exclusive public or utility easements established, dedicated, platted, improved or devoted for utility purposes. Private rights-of-way and other government-owned lands not listed above shall not be considered a right-of-way. The phrase “in the right(s)-of-way” means in, on, over, along, above and/or under the Right(s)-of-Way.

**Site:** For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.<sup>8</sup>

**Small Wireless Facilities, also referred to herein as “Small Cells”,** consistent with 47 CFR § 1.1312(e)(2), are facilities that meet each of the following conditions:

- (1) The facilities—
  - (i) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
  - (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or
  - (iii) 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 section 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 part 17 of this chapter;
- (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 section 1.1307(b).

**Stealth Technology:** State-of-the-art design techniques used to blend objects into the surrounding environment and to minimize the visual

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<sup>8</sup> 47 C.F.R. § 1.40001(b)(6).

impact as much as possible. These design techniques are applied to wireless communications towers, antennas and other facilities which blend the proposed WCF into the existing structure or visual backdrop in such a manner as to render it less visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, light poles, utility poles or flag poles, and eliminating, minimizing or hiding wires, equipment installed on or near monopoles or wireless support structures in connection with antennas placed thereon.

**Structure:** means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

**Substantial Change OR Substantially Change:** A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(i) for towers other than towers in the public rights-of-way, it increases the original height of the tower 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 existing towers or base stations, it increases the original height of the structure by more than 10% or more than ten feet, whichever is greater. Changes in height should be measured from the original 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.

(ii) for towers other than towers in the public rights-of-way, 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 existing towers or base stations, 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;

(iii) 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 rights-of-way 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;

(iv) it entails any excavation or deployment outside the current site.<sup>9</sup>

**Tower:** Any structure that exceeds ten feet (10') in height and is built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services (i.e. wifi) and fixed wireless services (i.e. point to point microwave transmission) such as microwave backhaul, and the associated site. A building, water tower, electrical transmission tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure designed and constructed for a sole or primary purpose other than supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, as well as a Ft. Worth Attachment shall not be considered a tower.<sup>10</sup>

**Tower-Based Wireless Communications Facilities (Tower-Based WCF):** Wireless communications facilities that include the installation of a new tower to support the transmission equipment. A WCF that requires the replacement of an existing structure (i.e. building, water tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure) to support the weight of a WCF is not considered a new Tower-Based WCF.

**Transmission Equipment:** Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as a microwave backhaul.<sup>11</sup>

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<sup>9</sup> *Id.* at § 1.40001(b)(7).

<sup>10</sup> *Id.* at § 1.40001(b)(9).

<sup>11</sup> *Id.* at § 1.40001(b)(8).

**WCF on Existing Structure:** Wireless communications facilities located on existing structures such as, but not limited to 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 tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.

**Wireless:** Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, personal communications service (PCS), microwave, satellite, or radio signals.

**Wireless Communications Facility (WCF):** The set of equipment and network components including antennas, transmitters, receivers, base stations, cabling and accessory equipment, used to provide wireless data and telecommunication services. The term shall not include the wireless support structure.

**Wireless Support Structure:** A freestanding structure, such as a guyed or self-supporting monopole or tower, electrical transmission tower, water tower or other structure not classified as a wireless support structure, including but not limited to buildings, light poles, utility poles, traffic signals and other similar structures that could support the placement or installation of wireless telecommunications facilities if approved by the municipality.<sup>12</sup>

### **§ 215-35.3. Zoning District Regulations for Wireless Communications Facilities (WCF)**

- A. Tower-Based WCF outside the ROW are permitted as a special exception in the C-1 Commercial District.
- B. Tower-Based WCF within the ROW are permitted as a special exception in the C, SUD and PK zoning districts only (see § 215-16, special exception procedure).
- C. Non-Tower-Based WCF's are permitted by right subject to application requirements stated herein in all districts, except that:
  - (1) No non-Tower-Based WCF shall be located, in any zoning district, on a single-family attached dwelling, single-family detached dwelling, townhouse or structure accessory to any of the above; and

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<sup>12</sup> 53 P.S. § 11702.2.



(2) No ground-mounted equipment shall be located on a lot in a residentially-zoned district unless the equipment is screened by landscaping and plantings or other decorative features so as to be substantially screened from the street or from any abutting property.

(3) Non-tower-based WCF's in the right-of-way shall be located on existing poles, in the right-of-way, such as utility poles or light poles, unless the applicant demonstrates that location on existing poles is not feasible.

A. Eligible Facilities Requests that do not substantially change the tower or base station are permitted by right in all zoning districts.

**§ 215-35.4. Bulk and Area Requirements**

The following requirements shall apply to WCF's and shall supersede any conflicting or inconsistent similar requirements of the underlying zoning district.

<b>TOWER BASED WCF's</b>			
		<b>WCF out of ROW</b>	<b>WCF in ROW</b>
<b>Height</b>		<p>Tower-Based WCFs shall be designed to minimum functional height but not to exceed 200 feet, except that the height limitation shall not apply to towers located on Township-owned property. Applicants must submit documentation justifying the total height.</p> <p>Equipment buildings, cabinets and accessory structures shall not exceed 15 feet in height.</p>	<p>Tower-Based WCFs shall be designed to minimum functional height, not to exceed 50 feet. Applicants must submit documentation justifying the total height.</p>
<b>Lot size</b>	Only use on lot:	Subject to underlying zoning district.	Not Applicable.
	Combined with another use on lot:	Subject to underlying zoning district. Area needed to accommodate the WCF and guy wires (if approved), equipment building or cabinets, security fence, and buffer planting must not extend outside the lot.	Not Applicable.
<b>Setbacks</b>	Towers:	Setback from property lines at least one hundred percent (100%) of the combined height of the wireless support structure and antenna, or the applicable minimum building setback in the underlying zoning district, whichever is greater.	Not Applicable.
	Equipment, guy anchors, buildings/cabinets:	Subject to applicable minimum building setback in the underlying zoning district.	Not Applicable.

<b>TOWER BASED WCF's</b>			
		<b>WCF out of ROW</b>	<b>WCF in ROW</b>
<b>Lo cat io n</b>	Towers, equipment buildings/cabinets	Shall not be located between front façade of the principal structure and the street the lot fronts on, except for equipment cabinets located underground.	Not Applicable

<b>NON-TOWER BASED</b>			
		<b>WCF out of ROW</b>	<b>WCF in ROW</b>
<b>Height</b>	On building or similar structure:	WCF shall not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a variance.	Not Applicable.
	On electrical transmission towers, street lights, utility poles, traffic signals, signs and similar structures:	WCF shall not exceed a height of 5 feet above the electrical transmission tower, street light, utility pole, traffic signal, sign and similar structure, unless the WCF applicant obtains a variance.	WCF located above the surface grade shall be designed at the minimum functional height. Equipment and components shall not be placed so low as to be a hazard to motorist or pedestrian.
<b>Setbacks</b>	Mounted antenna:	Not Applicable.	Not Applicable.
	Equipment buildings/ cabinets:	WCF Equipment buildings/ cabinets shall comply with the applicable minimum building setback requirements in the underlying zoning district.	
<b>Lot size</b>	Subject to applicable minimum lot size in the underlying zoning district.		Not Applicable.

**§ 215-35.5. Design, Construction and Operations**

- A. All WCFs shall be sited, designed, constructed, operated, inspected maintained, repaired, modified, removed and replaced in strict compliance with all current applicable federal and state technical and safety codes.

- B. Subdivision plan approval is not required for WCF installation.
- C. All WCFs shall be operated in accordance with all applicable FCC rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.
- D. Collocation. All Tower-Based WCFs where the Tower is more than 50 feet in height, located outside of the Right-of-Way, shall be designed to accommodate both the applicant's Antennas and comparable Antennas for future users. As a condition of approval for all Tower-Based WCFs more than 50 feet in height, the applicant shall agree to allow other service providers to collocate Antennas on the Tower where technically and economically feasible.
- E. Signage. All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and Federal Communications Commission (FCC) registration number (if applicable). Such signage shall not include commercial advertising, shall not protrude from the tower or WCF, and is subject to approval by the Township.

For tower-based WCF's outside of the right-of-way, the sign shall not exceed two (2) square feet in area. For all other WCF's, the sign shall be limited to the maximum necessary size to provide the required information in a readable manner.

- F. Lighting. Towers shall not be artificially lighted beyond what is required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect to surrounding properties as is permissible while still meeting state or federal requirements.
- G. Noise. All WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards established by § 215-38.A(3) of the Zoning Ordinance. The use of a backup generator is prohibited except that in emergency situations and for periodic maintenance and testing by the wireless communications provider's technicians, such use shall be permitted, where such noise standards may be exceeded on a temporary basis.

H. Vehicular Access.

- (1) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access to all Tower-Based WCFs located outside of the Right-of-Way.
- (2) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.

- (3) Where possible, access driveway construction shall at all times minimize ground disturbance and the cutting of vegetation.
  - (4) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
  - (5) An applicant shall present documentation to the Township that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
  - (6) Any required access easement shall be a minimum of 20 feet in width and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least 10 feet throughout its entire length.
  - (7) Vehicular access to all WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.
- I. Fencing. A security fence, which may include barbed wire, with a minimum height of eight (8') feet may be required to surround any Tower-Based WCF located outside the Right-of-Way, where the Tower is more than 50 feet in height, including guy wires, associated equipment, and buildings. All or any of the requirements herein for a security fence may be waived by the Zoning Hearing Board when the fence would not be appropriate or feasible.
- J. Safety in Rights-of-Way.
- (1) Schedule of operations. The Township shall determine the time, place and manner of siting, design, construction, maintenance, repair, Modification, removal and/or Replacement of all WCFs located in the Right-of-Way, based on public safety, traffic management, physical burden on the Right-of-Way and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
  - (2) Alteration of a WCF. Within 60 days following written notice from the Township, 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 located in the Right-of-Way 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 have determined that such removal, relocation, change or alteration is reasonably necessary under any one of the following circumstances:

- (a) The construction, repair, maintenance or installation of any municipal or other public improvement located in the Right-of-Way.
- (b) The operations of the Township or other governmental entity in the Right-of-Way.
- (c) Vacation of a street or road or the release of a utility easement.
- (d) An emergency as determined by the Township.
- (e) No permit is required for such removal, relocation, change or alteration ordered by the Township.

(3) Visual obstruction. All WCFs and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the Right-of-Way as determined by the Township. In no case shall ground-mounted equipment, walls, screening or landscaping be located within (18) inches of the face of the curb, or in an area in which there are no curbs, within (3) feet of the edge of cartway.

K. Maintenance. An applicant for a WCF shall describe anticipated maintenance needs, including frequency of service, personnel needs and equipment needs, and the traffic, safety and noise impacts of such maintenance.

L. Soil report. An applicant for a Tower-Based WCF where the new Tower is more than 40 feet in height, shall submit a soil report complying with the standards of geotechnical investigations, ANSI/EIA-222-G, as amended, shall be submitted to the Township Engineer prior to construction to document and verify the design specifications of the foundation for the Wireless Support Structure and anchors for the guy wires, if used.

M. Aviation safety. All WCFs shall comply with federal and state laws and regulations concerning aviation safety.

N. Inspections for all WCFs more than 50 feet in height.

(1) A copy of any required inspection report shall be provided to the Township following the inspection. Any repairs advised by report shall be completed by the WCF owner within 60 calendar days after the report is filed with the Township.

O. Equipment Storage. The storage of unused equipment or supplies is prohibited on any WCF site.

- P. Historic Sites. No WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or has been given a historic designation by the Township. This prohibition may be waived by the Zoning Hearing Board for special exception and by the Board of Supervisors for other applications, if the applicant can demonstrate that the proposed location is less visually obtrusive than other potential sites. This prohibition shall not apply to a WCF installation permitted by FCC regulations.
- Q. Tower-based WCF's outside of the ROW in excess of 50 feet in height shall be equipped with a twenty-four hour security system.

**§ 215-35.6. Aesthetics, Landscaping, and Screening**

- A. Stealth Technology. All WCFs shall employ the most current Stealth Technology available, where appropriate and technically feasible, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.

In the case of a tower-based WCF, compliance with this Section may be evidenced by the following, where technically feasible:

- (1) The tower shall have such color as may be commercially and technically feasible to achieve and as may be required by the Township zoning officer to avoid unsightly or out-of-character deployments.
- (2) The tower shall comply with Federal Aviation Administration and Pennsylvania Bureau of Aviation lighting standards and shall not be artificially lighted unless required by those agencies.
- (3) For new metal poles supporting a Small Cell antenna, the pole color and design shall match as nearly as practical those existing surrounding poles or shall, where commercially and technically feasible, be such color as required by the Township zoning officer to avoid unsightly or out-of-character deployments.
- (4) The antenna shall match the pole in color where technically feasible and where painting will not interfere with the signal transmission.

- B. Landscaping and Screening. An applicant for Tower-Based WCF outside of the right-of-way more than 50 feet in height shall submit a landscaping and screening design including the following:



- (1) The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF support structure shall be preserved to the maximum extent possible.
- (2) Ground mounted equipment must be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by Township. Where the site abuts a residential zoning district, public property or street, a buffer area shall be provided along the perimeter abutting the residential district to include at minimum 2 staggered rows of evergreen trees a minimum of six feet in height, which trees shall be replaced with trees of at least six feet in height when dead or damaged.

C. Associated Equipment.

- (1) All equipment associated with a WCF located above ground must be enclosed and all wires and cables must be housed in shrouds, risers or conduit. To the extent commercially and technically feasible, all equipment shall be of the same color and the color shall match as closely as possible the color of the pole or upright structure to which it is mounted, and to avoid unsightly and out-of-character developments.
- (2) The maximum width and depth of any piece of associated equipment may not exceed 1½ times the diameter of the pole on which it is to be located unless the Applicant proves that no reasonable alternative exists.
- (3) Antennas must be screened with a radome or similar concealment technique that covers the entire antenna, cables, connectors and hardware, where such screening will not interfere with transmission/reception capabilities of the antenna.
- (4) Pole-mounted equipment other than cabling must be located at least eight (8) feet above the ground.

**§ 215-35.7. Replacement, Collocation, or Modification**

- A. Notwithstanding the requirements for all Tower-Based WCFs and WCFs on Existing Structures, as set forth in this sub-section, an application for Replacement, Collocation or Modification of a previously approved Wireless

Support Structure or WCF shall be reviewed for conformance with the Township building permit requirements, including requirements applicable to the added structural loading of the proposed Antennas and Accessory Equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, provided that there is no Substantial Change.

- B. Replacement of WCFs on existing Wireless Support Structures or within existing Equipment Compounds may be performed by the applicant without obtaining building or zoning permits from the Township.
- C. Any Substantial Change to an existing Tower-Based WCF shall require approval of the Township in accordance with the terms of this Section.
- D. Mounting. An applicant proposing a WCF on Existing Structure to be mounted on a building or any other structure shall submit detailed construction and elevation drawings indicating how the WCF on Existing Structure will be mounted on the existing structure for review by the Township building code official for compliance with the building code.

#### **§ 215-35.8. Permit Requirements**

- A. Collocation Analysis. An application for a new Tower-Based WCF more than 50 feet in height and located outside of the Right-of-Way, shall not be approved unless the applicant demonstrates that the Wireless communications equipment planned for the proposed Tower-Based WCF cannot be collocated on an existing structure or building within a 1/2 mile radius of the proposed Tower-Based WCF location to achieve the coverage or capacity objectives of the applicant.
- B. Gap in Coverage or Lack of Adequate Capacity. An applicant for a Tower-Based WCF where the new Tower that is more than 40 feet in height, located outside of the Right-of-Way, must demonstrate that a significant gap in Wireless coverage exists or lack of adequate capacity is likely to exist within one (1) year of the filing of its application with respect to the applicant in the area.
- C. Authorization. An applicant for a WCF shall submit a copy of the lease or other form of written authorization with the property owner confirming that the applicant has standing to file the application and maintain the proposed WCF on the subject lot or property.
- D. Licensing and applicable regulations. If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with its application copies of all FCC permits and licenses.

- E. Emissions. The proposed WCF will comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic emissions.
- F. Insurance. The applicant shall provide a certificate of insurance issued to the owner/operators of the WCF, evidencing that there is or will be adequate current liability insurance in effect.
- G. Review timeframes.

Table 8.1  
WCF Review Timeframes

	Type of Application	Township shall notify the applicant in writing of any information that may be required to complete application:	Township shall approve or deny the application unless a shorter time period is applicable under the Pa. MPC :
A	Collocate Small Cell on Existing Structure	Within 10 days after application submitted	Within 60 days of submission of complete application
B	Collocate a Facility Other Than a Small Cell Using An Existing Structure	Within 30 days after application submitted	Within 90 days of submission of complete application
C	Deploy Small Cell Using a New Structure	Within 30 days after application submitted	Within 90 days after submission of a complete application
D	Eligible Facilities Requests** (as defined herein)	Within 30 days after the application is submitted	Within 60 days* of submission of a complete application
E.	New Tower-Based WCF's (not covered by Lines A through D above)	Within 30 days after the application is submitted	Within 150 days of submission of a complete application

\*The time period may be tolled by mutual agreement or in cases where the Township informs the applicant in a timely manner that the application is incomplete. If an application is considered incomplete, the time period begins running again as soon as the applicant makes a supplemental submission, but may be tolled again if the Township provides written notice to the applicant within 10 days that the application remains incomplete and specifically delineates which of the deficiencies specified in the original notice of incompleteness have not been addressed.

\*\*The Township shall only require the applicant to provide documentation that is reasonably related to determining whether the request is for an Eligible Facility

#### H. Applications.

- (1) Applications will include all applicant information required by the Township, in such number and format as the Township may direct.
- (2) A fully dimensional site plan, plans and elevations drawn to scale shall be submitted, showing
  - (a) Any existing wireless communications facilities, equipment or supporting structures known to applicant.
  - (b) The proposed WCF and dimensions of all equipment to be used therewith.
  - (c) The legal boundaries of the property and any leased area on which the WCF will be sited.
- (3) Visual impact demonstrations using photographic simulations of the proposed WCF as seen from reasonable surrounding locations and angles, and showing the color of all equipment.
- (4) A written description of all stealth technology to be employed, and landscaping or screening plans.
- (5) Licensing and applicable regulations. If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with its application copies of all FCC permits and licenses and by any PUC certification.
- (6) Emissions. Applicant must demonstrate that the proposed WCF or similar infrastructure deployment will comply with all applicable

standards established by the Federal Communications Commission governing human exposure to electromagnetic emissions.

- (7) Insurance. The applicant shall provide a certificate of insurance issued to the applicant, evidencing that there is or will be adequate current liability insurance in effect.

I. Application Fees.

1. Applications for WCF's shall be accompanied by the nonrefundable application fees set forth below or such others fees as may be adopted by resolution of the Board of Supervisors:

- (a) Small cells - \$500 for a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five, or \$1,000 for a new tower intended to support one or more Small Wireless Facilities, said fees to cover both zoning and building safety code approvals.
- (b) New tower (non-Small Cell) - \$1,000
- (c) Collocation on existing tower (non-Small Cell) - \$500
- (d) New non-tower-based WCF outside or inside the right-of-way (non-Small Cell) - \$500
- (e) Eligible Facilities Requests that do not substantially change the tower or base station (non-Small Cell) - \$100
- (f) Modifications with substantial change (non-Small Cell) - \$500

2. In addition to the nonrefundable fees set forth above in § I.A, applicant shall reimburse the Township for all reasonable costs of its Engineer, Solicitor and other experts or consultants in connection with review of the application. An initial deposit towards such review fees of \$1,000 for a new, non-Small Cell tower outside or inside the ROW shall accompany the application and be applied to reimbursable review fees as they are incurred. If at any time the remaining deposit balance is below 50% of the initial deposit, then applicant shall replenish the account up to the original amount. If the amount deposited exceeds the Township's actual review costs, the remaining balance shall be refunded to the applicant.

**§ 215-35.9. Discontinuation, Abandonment and Removal**

A. Discontinuation. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner/operator shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- (1) All unused or abandoned WCFs and accessory facilities shall be removed within 12 months of the cessation of operations at the Site unless a time extension is approved by the Township. In the case of towers, the foundation must also be removed.
- (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 Township, the WCF and accessory facilities and equipment may be removed by the Township and the Township's costs in connection with removal, including professional or consultant fees, and the cost of removal work and site remediation, may be assessed against the owner of the WCF or the property upon which the WCF was located.
- (3) Any unused portions of WCFs, including Antennas, shall be removed within six (6) months of the time of cessation of operations.
- (4) As long as any portion of a WCF, whether used or unused, remains in the ROW, including but not limited to a tower foundation, the annual fee for use of the ROW established, pursuant to § 215-35.10, shall be owed for any year or part of a year during which the ROW is so occupied by the WCF or portion thereof.

**§ 215-35.10. Reimbursement for Right of Way Use**

A. In addition to permit application fees, every WCF in the right-of-way is subject to the Township's right to impose annually a fair and reasonable fee to be paid for use and occupancy of the right-of-way. Such annual fee shall be directly related to the Township's costs of owning, maintaining, managing the right-of-way and to the loss of use to the Township of that portion of the right-of-way consumed by the WCF. Fees shall be as follows, subject to adjustment by Resolution of the Board of Supervisors:

- (1) Small Wireless Facilities - \$270 per calendar year or portion thereof per Small Wireless Facility in the Township ROW.
- (2) Non-Small Wireless Facilities in the Township ROW - \$270 per calendar year or portion thereof per WCF plus \$100/calendar year or portion thereof for a ground-mounted equipment compound located within the ROW.

**§ 215-35.11. Special Exception Criteria and Procedures**

A. The Applications for special exception approval for Tower-Based WCF shall, in addition to meeting other applicable requirements of this Article, meet the following criteria:

- (1) Applicant shall provide to the Township, prior to issuance of a zoning permit for construction, financial security to guarantee the removal of any Tower-Based WCF. Such financial security shall be in an amount determined by the Township Engineer based upon industry standards for removal and shall be acceptable in form and content to the Township Engineer.
- (2) No Tower-Based WCF shall be located or within 100 feet of an area in which all utilities are located underground.
- (3) Applicant shall provide evidence of the need for the proposed tower and WCF, but shall not be required to provide proprietary data.
- (4) The applicant shall supply documentation demonstrating that the proposed WCF complies with all state and federal requirements regarding aviation safety.
- (5) Where the WCF is located on a property with another principal use, the applicant shall present documentation that the property owner has granted an appropriate lease or easement for the WCF and for access to the WCF.
- (6) The special exception general procedures and criteria at § 11.4 shall apply and be satisfied by the applicant. In addition, the applicant shall, at its expense, mail written notice of the scheduled public hearing to all owners of record of property within five hundred (500) feet of the proposed WCF. Such notice shall be mailed at least fourteen (14) days prior to the scheduled public hearing and the applicant shall provide a copy of such notice and proof of such mailing to the Township at or before the time of the hearing.

II. Repeal. Any ordinance or part of any ordinance inconsistent or conflicting with this Ordinance is repealed to the extent of such inconsistency or conflict.

III. Severability. It is intended that the provisions in this Ordinance are severable and if any provisions are held or declared illegal, invalid or unconstitutional by a court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections.

IV. Effective Date. This Ordinance shall be effective immediately upon adoption.

This Ordinance adopted at a duly assembled public meeting held this 27<sup>th</sup> day of August, 2019.

ATTEST:

[Signature]  
Secretary

TOWNSHIP OF KILBUCK

By: [Signature]  
Chair, Board of Supervisors

Recording Certification: This Ordinance recorded in the Township Ordinance book on Aug 27, 2019 by the undersigned.

[Signature]  
Township Secretary