

**BOROUGH OF HUMMELSTOWN
DAUPHIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2021-5

**AN ORDINANCE OF THE BOROUGH OF HUMMELSTOWN, DAUPHIN COUNTY,
PENNSYLVANIA ESTABLISHING STANDARDS FOR WIRELESS
COMMUNICATIONS FACILITIES.**

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

**SECTION I. AMENDMENT OF WIRELESS COMMUNICATIONS FACILITIES
PROVISIONS**

Chapter 27, Part 22 "Wireless Communications Facilities," of the Hummelstown Borough zoning ordinance is hereby repealed in its entirety and replaced with a new Chapter 27, Part 22 entitled and provided for as follows:

**Part 22
Wireless Communications Facilities**

§27-2201. Purposes.

1. The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Hummelstown Borough (referred to herein as the "Borough"). While the Borough recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
2. By enacting these provisions, the Borough 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 Borough residents and wireless carriers in accordance with federal and state laws and regulations;

- C. Establish procedures for the design, siting, construction, installation, maintenance and removal of wireless communications facilities in the Borough, including facilities both inside and outside the public rights-of-way;
- D. Address new wireless technologies, including but not limited to, distributed Antenna systems, data collection units, 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 Non-Tower WCF and related facilities on existing towers;

3. Promote the health, safety and welfare of the Borough's residents.

§27-2202. Definitions.

As used in this Part 22, the following terms shall have the meanings indicated.

- A. *Accessory Equipment*—any equipment serving or being used in conjunction with a Wireless Communications Facility or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- B. *Antenna* — an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.
- C. *Borough* – Borough of Hummelstown, Dauphin County, Pennsylvania.
- D. *Collocation*—the mounting of one or more WCFs, including Antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.
- E. *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.
- F. *Equipment Compound*—an area surrounding or adjacent to a Wireless Support Structure within which base stations, power supplies, or Accessory Equipment are located.
- G. *FAA* — Federal Aviation Administration
- H. *FCC*—Federal Communications Commission.
- I. *Height* — When referring to a WCF or Wireless Support Structure, means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any Antenna(s).
- J. *Modification or Modify*—the improvement, upgrade or expansion of existing Wireless Communications Facilities or base stations on an existing Wireless Support Structure or the improvement, upgrade, or expansion of the Wireless Communications Facilities located within an existing Equipment Compound, if the improvement, upgrade, expansion or replacement does not Substantially Change the physical dimensions of the Wireless Support Structure.
- K. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—Wireless Communications Facilities that are Collocated 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.
- L. *Public Utility Commission (PUC)* – *The Public Utility Commission of the Commonwealth of Pennsylvania.*
- M. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* -- the replacement of existing Wireless Communications Facilities on an existing Wireless Support Structure or within an existing Equipment Compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the Wireless Communications Facilities initially installed and that does not substantially change the physical dimensions of the existing Wireless Support Structure.
- N. *Small Wireless Communications Facility* – a Wireless Communications Facility that meets the following criteria:
- (1) The Wireless Support Structure on which Antenna facilities are mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures, or

(iii) is not extended to a height of more than 50 feet or by more than 10 percent above its height prior to the Collocation of any WCF as a result of the Collocation of new Antenna facilities; and

(2) Each Antenna associated with the deployment (excluding the Accessory Equipment) is no more than three cubic feet in volume; and

(3) All Accessory Equipment associated with the Wireless Support Structure including the wireless equipment associated with the Antenna and any pre-existing associated equipment on the Wireless Support Structure, is cumulatively no more than 28 cubic feet in volume.

(4) The Wireless Communications Facility does not require Antenna structure registration under 47 CFR Part 17;

(5) The Wireless Communications Facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The Wireless Communications Facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

- O. *Stealth Technology* — Camouflaging methods applied to Wireless Communications Facilities and Accessory Equipment 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 Antennas, building-mounted Antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
- P. *Substantial Change* – A modification substantially changes the physical dimensions of an support structure if it meets the criteria established by 47 CFR §1.6100.
- Q. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—any structure that is used for the primary purpose of supporting one or more Antennas, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying Antenna and Accessory Equipment.
- R. *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)
- S. *Wireless* — Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

- T. *Wireless Communications Facility (WCF)*— an Antenna facility or a Wireless Support Structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- U. *Wireless Communications Facility Applicant (WCF Applicant)* -- Any person that applies for a Wireless Communications Facility building permit, zoning approval and/or permission to use the public ROW or other Borough-owned or third party land or property.
- V. *Wireless Support Structure*—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 wireless service (whether on its own or comingled with other types of services).

§27-2203. General requirements for all Wireless Communications Facilities.

1. Standard of care.
 - A. All WCFs shall meet or exceed all applicable standards and provisions of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate Wireless Communications Facilities, the latest National Electrical Safety Code (NEC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Borough.
 - B. If such standards or regulations are changed, the owner of the WCF shall bring such WCF into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the WCF at the owner's expense.
 - C. The WCF Applicant shall submit proof of compliance with all applicable federal and state standards, including but not limited to those established by the Federal Communications Commission, as part of any complete WCF application.
2. Engineer signature. All plans and drawings included in an application for a WCF shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state and federal laws and regulations applicable to the proposed WCF.
3. Eligible Facilities Requests. WCF Applicants proposing a Modification to an existing WCF shall be required only to obtain permits of general applicability from the Borough. In order to be considered for such permits, the WCF Applicant must submit permit

applications to the Borough in accordance with the requirements of the Borough Code. Such permit applications shall clearly state that the proposed Modification constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit applications shall detail all dimensional changes being made to the WCF and Wireless Support Structure.

4. Wind and ice. All WCFs shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
5. Non-conforming Wireless Support Structures. WCFs shall be permitted to Collocate upon existing non-conforming Wireless Support Structures. Collocation of WCFs upon existing Wireless Support Structures is encouraged even if the existing Wireless Support Structure is non-conforming as to use within a zoning district.
6. Signs. All WCFs shall post a sign in a readily visible location on each major equipment component identifying the name and phone number of a party to contact in the event of an Emergency. The size and design of such signage shall be approved by the Borough. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
7. Inspections; reports. Inspection reports shall be submitted to the Borough by the owner of a WCF upon request to ensure structural integrity and compliance with applicable federal, state and local codes and regulations.
8. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Borough fee schedule.
9. Performance Bond. The owner of a WCF obtain a performance bond in an amount sufficient to guarantee removal of the WCF. Evidence of such performance bond shall be provided to the Borough as part of a complete WCF application.
10. Indemnification. Each person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the WCF. Each person that owns or operates a WCF shall defend any actions or proceedings

against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

11. **Non-commercial usage exemption.** Borough residents utilizing satellite dishes, citizen and/or band radios, and Antennas for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Part.
12. **Historic Buildings.** No Tower-Based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts list maintained by the Borough
13. **Change in Ownership.** If ownership of a WCF is transferred to a party other than the party designated as the owner on the application for the WCF, notice detailing the change in ownership shall be provided to the Borough within thirty (30) days of such change in ownership.
14. **Abandonment; Removal.** In the event that use of a WCF and/or its dedicated Accessory Equipment is to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. A WCF and/or dedicated Accessory Equipment not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:
 - A. All abandoned or unused WCFs and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the Borough, unless a time extension is approved by the Borough.
 - B. If the WCF or Accessory Equipment is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF regardless of the owner's or operator's intent to operate the WCF in the future.
 - C. The Borough reserves the right to pursue all available remedies under the law to ensure removal of the WCF and restoration of the site at the expense of the owner. Any delay by the Borough in taking action shall not invalidate the Borough's right to take action.

D. Where there are two or more users of a single WCF, this provision shall not become effective until all users have terminated use of the WCF for a period of twelve (12) months.

15. Maintenance. The following maintenance requirements shall apply:

A. All WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.

B. Such maintenance shall be performed by the owner of the WCF to ensure the upkeep of the WCF in order to promote the safety and security of the Borough's residents and in accordance with all applicable Borough, state and federal regulations

C. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents. Maintenance logs will be provided to the Borough upon request.

16. Timing of Approval. The following table details the applicable timeframe of approval for each type of WCF application:

Type of WCF/Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from receipt of initial application.
Small WCF (Collocated)	10 business days from receipt of initial or supplemental application.	60 total calendar days from receipt of initial application.
Small WCF (New or Replacement Wireless Support Structure)	10 business days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.
Non-Tower WCF	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of	90 total calendar days from

	supplemental application for subsequent notices.	receipt of initial application.
Tower-Based WCF	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 total calendar days from receipt of initial application.

§27-2204. Tower-Based Wireless Communications Facilities outside the rights-of-way.

1. The following regulations shall apply to all Tower-Based Wireless Communications Facilities that do not meet the definition of a Small WCF.

A. Siting Requirements.

(1) Tower-Based WCFs shall not be located in, or within 75 feet of, an area in which all utilities are primarily located underground.

(2) Tower-Based WCFs are permitted by right outside the public rights-of-way in the following zoning districts, subject to the above prohibition:

(a) IN Industrial District

(b) I-L Industrial District Light

(3) Tower-Based WCFs are permitted by conditional use, outside the public rights-of-way, subject to the prohibition above, in the following zoning districts:

(a) R-TF Residential District Two-Family/Apartment

(b) R-M Residential District Mixed

(c) R-C Residential District Cluster

(d) C-CDB Commercial District Central Business District

(e) C-W Commercial District Warehouse

B. Application Requirements.

(1) Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant

shall mail notice to all owners of every property within 500 feet of the proposed facility. The WCF Applicant shall provide proof of the notification to the Borough.

- (2) Prior to the Borough's approval of an application for the construction and installation of a Tower-Based WCF, it shall be incumbent upon the WCF Applicant to prove to the reasonable satisfaction of the Borough Council that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable, less-intrusive alternative location exists.
- (3) The application shall include the name and contact information, including phone number, for both the WCF Applicant and the owner of the proposed Tower-Based WCF.
- (4) The application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.
- (5) The application shall include aerial photographs of the area within a 500' radius of the proposed Tower-Based WCF and identify all existing WCFs in that area.
- (6) The application shall be accompanied by 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.
- (7) The application shall include evidence 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 nonexistence of a gap in wireless coverage shall be a factor in the Borough's decision on an application for approval of Tower-Based WCF.
- (8) Where the Tower-Based WCF is located on a property that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Borough that the owner of the property has granted an easement or other

property right, if necessary, for the proposed WCF and that vehicular access will be provided to the facility.

- (9) The application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania 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.
- (10) An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing Wireless Support Structure. Borough Council may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing Wireless Support Structure. The WCF Applicant shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one-quarter (1/4) mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - (a) The proposed Antenna and related equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - (b) The proposed Antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - (c) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (d) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- (11) The application shall include a report by a qualified engineering expert which shows that the Tower-Based WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
- (12) The application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions of this Part.

C. Development Regulations.

- (1) Sole use on a lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in the Borough Zoning Code.
- (2) Combined with another use. A Tower-Based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
 - (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 Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting if the proposed WCF is greater than 40 feet in height.

D. Design Regulations.

- (1) Height. Any Tower-Based WCF shall be designed at the minimum functional height. In all Zoning Districts the maximum height of any new Tower-Based WCF shall be 200 feet. An existing Tower-Based WCF may be modified or extended to a height not to exceed a total height of 215 feet, to accommodate the Collocation of additional Antennas.
- (2) Visual Appearance and Land Use Compatibility.
 - (a) Tower-Based WCFs shall employ Stealth Technology which may include the Wireless Support Structure being painted a certain color as approved by Borough Council or utilizing a galvanized finish.
 - (b) All Tower-Based WCFs and Accessory 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.
 - (c) Borough 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; prevent 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.

- (3) **Anti-Climbing Device.** If deemed necessary by Borough Council, a Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (4) **Minimum Setbacks.** The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall be equal to 100% of the height of the Tower-Based WCF or the minimum front yard setback of the underlying zoning district, whichever is greatest. Where the site on which a Tower-Based WCF 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 Tower-Based WCF and any such adjoining uses shall equal 250 feet, regardless of the height of the Tower-Based WCF, 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.

E. 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 Borough Council complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

F. Fence/Screen.

- (1) A security fence with a minimum height of six feet and a maximum height of eight feet, with openings no greater than nine inches, shall completely surround any Tower-Based WCF greater than 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 tower-based WCF as possible. Borough 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 feet at planting and shall grow to a minimum of 15 feet at maturity.

G. Accessory Equipment.

- (1) Either 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 communications Antenna(s) space on the Tower-Based WCF.
- (2) Ground-mounted Accessory Equipment associated to, or connected with, a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technology, as described above.
- (3) All Accessory 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.

H. Additional Antennas. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Borough Council with a written commitment that it will allow other service providers to Collocate Antennas on the Tower-Based WCF where technically and economically feasible. To the extent permissible under state and federal law, the owner of a Tower-Based WCF shall not install any additional Antennas without complying with the applicable requirements of this Part.

I. FCC License. Each person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and Emergency telephone number for the operator of the facility.

J. Lighting. No Tower-Based WCF 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 Borough Secretary.

K. Storage. The storage of unused equipment, materials or supplies is prohibited on any Tower-Based WCF site.

- L. **Repair of Non-Conforming Tower-Based WCF.** Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this section. The Collocation of Antennas is permitted on non-conforming structures.
- M. **Insurance.** Each person that owns or operates a Tower-Based WCF shall provide the Borough Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF.
- N. **Bond.** Prior to the issuance of a permit, the owner of a Tower-Based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor, in an amount of \$10,000 to assure the removal of the Tower-Based WCF upon abandonment or cessation of use for a period of six months. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Part, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough.

§27-2205. Non-Tower Wireless Communications Facilities outside the rights-of-way.

- 1. The following regulations shall apply to all Non-Tower WCFs that do not meet the definition of a Small WCF:
 - A. **Siting Requirements.**
 - (1) Non-Tower WCFs shall be permitted by conditional use in all zoning districts subject to the requirements of this Part 22.
 - (2) The following sites shall be considered by WCF Applicants as the preferred order of location of proposed Non-Tower WCFs. As determined to be Technically Feasible, in order of preference, the sites are:
 - (a) Existing WCF, smokestack, water tower, or any other tall structure.
 - (b) I-L Industrial District.
 - (c) IN Institutional District.
 - (d) Publicly owned structures.

- (e) C-G Commercial General District and C-W Commercial Warehousing District.
- (f) Residential zones which are R-M Residential Mixed District, R-C Residential Cluster District and R-TF Residential Two-Family/Apartments District as a conditional use.

B. Application procedures.

- (a) Applications for Non-Tower WCFs shall be submitted to the Borough Zoning Officer.
- (b) All applications for Non-Tower WCFs shall include the following information:
 - [i] The name and contact information, including phone number, for both the WCF Applicant and the owner of the proposed Non-Tower WCF.
 - [ii] A site plan, drawn to scale, showing property boundaries, power location, total height of the Non-Tower WCF, the entirety of the structure upon which the Non-Tower WCF will be Collocated, and Accessory Equipment locations.
 - [iii] A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Non-Tower WCF.
 - [iv] If the Non-Tower WCF is proposed for location on a Wireless Support Structure that currently supports existing WCFs or other attachments, the depiction shall show the location and dimensions of all such attachments.
 - [v] The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Non-Tower WCF.
 - [vi] An aerial photograph of the proposed site showing the area within 500 feet of the Non-Tower WCF. The aerial photograph shall identify all structures within such radius.
 - [vii] Photo simulations depicting the Non-Tower WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Non-Tower WCF.

[viii] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Non-Tower WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.

[ix] A report by a qualified engineering expert which shows that the Non-Tower WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

[x] A certificate of insurance as required by Section 27-2205.1.H.

[xi] Certification of the application's compliance with all requirements of this Part 22.

[xii] All application fees required by the Borough as detailed in the Borough fee schedule.

C. Development Regulations.

- (a) The total height of any wireless support structure and mounted WCF shall not exceed 20 feet above the maximum height permitted in the underlying zoning district, unless the WCF applicant applies for, and subsequently obtains, a variance.
- (b) In accordance with industry standards, all WCF Applicants must submit documentation to the Borough showing that the proposed Non-Tower WCF is designed to be the minimum height technically feasible and justifying the total height of the Non-Tower WCF.
- (c) If the WCF Applicant proposes to locate the Accessory Equipment in a separate ground-mounted 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 feet at planting and shall grow to a minimum of 15 feet at maturity.
- (d) A security fence with a minimum height of six feet and a maximum height of eight feet, with openings no greater than nine inches, shall surround any separate ground-mounted 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.

D. Design.

(a) Non-Tower WCF 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 utilized by the WCF Applicant shall be subject to the approval of the Borough.

(b) Non-Tower WCFs shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.

E. Prohibited on Certain Structures. No Non-Tower WCF shall be located on single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any residential accessory structure.

F. Third Party Wireless Support Structures. Where the Non-Tower WCF is proposed for Collocation on a Wireless Support Structure that is not owned by the WCF Applicant, the WCF Applicant shall present documentation to the Zoning Officer that the owner of the Wireless Support Structure has authorized Collocation of the proposed Non-Tower WCF.

G. Retention of experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF at its sole discretion 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 Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities. At the sole discretion of the Borough Zoning Officer, the establishment of a Professional Services Agreement may be required.

H. Insurance. Each person that owns or operates a Non-Tower WCF shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower WCF.

I. Substantial Change. Any Substantial Change to a WCF shall require notice to be provided to the Borough Zoning Officer, and possible supplemental permit approval as determined by the Borough Zoning Officer in accordance with the Borough Code.

§27-2206. Small Wireless Communications Facilities.

1. The following regulations shall apply to all Small WCFs.

A. Application Procedures.

- (1) Small WCFs shall be a permitted use in all Borough zoning districts, subject to the requirements of this Part 22 and generally applicable permitting as required by the Borough Code.
- (2) Applications for Small WCFs shall be submitted to the Borough Zoning Officer.

B. Applications for Small WCFs shall include the following:

- (1) The name and contact information, including phone number, for both the WCF Applicant and the intended owner of the proposed Small WCF.
- (2) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Small WCF, and a certification that the WCF Applicant has included all information required by the Borough Code, signed by a representative of the WCF Applicant.
- (3) Upon submission of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, the WCF Applicant shall mail notice to all owners of every property within 250 feet of the proposed Small WCF. The WCF Applicant shall provide proof of the notification to the Borough.
- (4) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Small WCF.
 - (a) If the Small WCF is proposed for location on an existing or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - (b) If installation of a new or replacement Wireless Support Structure is being proposed, the depiction shall include the color, dimensions, material and type of Wireless Support Structure proposed.

- (5) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small WCF.
- (6) An aerial photograph of the proposed site showing the area within 500 feet of the Small WCF. The aerial photograph shall identify all structures within such radius.
- (7) Photo simulations depicting the Small WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Small WCF.
- (8) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Small WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
- (9) A report by a qualified engineering expert which shows that the Small WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
- (10) A certificate of insurance as required by Section 27-2206.1.A(15).
- (11) Certification of the application's compliance with all requirements of this Part 22.
- (12) All application fees required by the Borough as detailed in the Borough fee schedule.

C. Resubmission Following Denial.

- (1) If the Borough denies an application for a Small WCF, the Borough shall provide the WCF Applicant with written documentation of the basis for denial, including the specific provisions of the Borough Code on which the denial was based, within five (5) business days of the denial.
- (2) The WCF Applicant may cure the deficiencies identified by the Borough and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Borough shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.

- D. Consolidated applications. A single WCF Applicant may not submit more than one consolidated or 20 single applications for Collocated Small WCFs in a 30-day period. If the Borough receives more than one consolidated application or 20 single applications within a 45-day period, the applicable timeframe under Section 27-2203.16 shall be extended by 15 days.
- E. Time, Place and Manner. Once approved, the Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- F. Attachment to municipal structures. The Borough shall allow the Collocation of Small WCFs to structures owned by the Borough in accordance with the hierarchy detailed in this section. If the WCF Applicant is proposing the Collocation of a Small WCF on a lower priority structure, it shall be a condition to the approval of the application that the WCF Applicant provide evidence that Collocation on a higher priority structure or Wireless Support Structure owned by a third-party is not Technically Feasible. In order from most preferable to least preferable, the Borough's Collocation preferences are as follows.
- (1) Power poles;
 - (2) Traffic signage poles without traffic signals;
 - (3) Traffic signal poles;
 - (4) Decorative light poles.
- G. Obstruction. Small WCFs and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Borough.
- H. Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Borough.
- I. Design standards. All Small WCFs in the Borough shall comply with the requirements of the Borough *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Borough Zoning Office.
- J. Obsolete equipment. As part of the construction, Modification or Replacement of a Small WCF, the WCF Applicant shall remove any obsolete or abandoned equipment from the Wireless Support Structure.

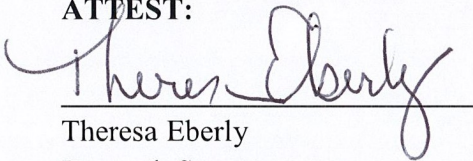
- K. **Relocation or Removal of Facilities.** Within ninety (90) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (1) The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
 - (2) The operations of the Borough 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 that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Borough.
- L. **Time limit for completion of construction.** The proposed Collocation, the Modification or Replacement of a Wireless Support Structure or the installation of a new Wireless Support Structure with Small WCF attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the Borough and the WCF Applicant agree in writing to extend the period.
- M. **Reimbursement for ROW Use.** In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each Small WCF shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.
- N. **Insurance.** Each person that owns or operates a Small WCF shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Small WCF.

SECTION II. MISCELLANEOUS.

- A. Police powers. The Borough, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Borough under applicable federal, state and local laws and regulations.
- B. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
- C. Effective Date. This Ordinance shall become effective immediately upon enactment by the Council of the Borough of Hummelstown.

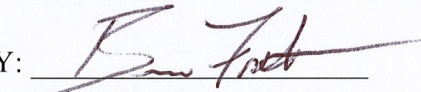
BE IT DULY ORDAINED AND ENACTED into law this 19th day of Nov 2021, by the Borough of Hummelstown, Dauphin County, Pennsylvania, in lawful session duly assembled

ATTEST:



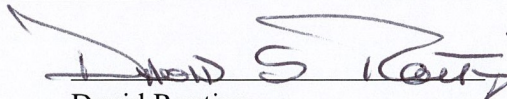
Theresa Eberly
Borough Secretary

**BOROUGH COUNCIL OF THE
BOROUGH OF HUMMELSTOWN**

BY: 

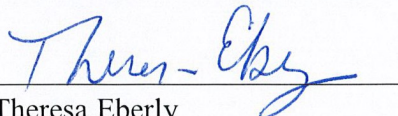
Brian Foster
Borough Council President

AND NOW THIS _____ day of _____, 2021, the foregoing Ordinance is approved.



David Roeting
Mayor

I hereby certify the foregoing Ordinance was advertised in the sun on Nov 11, 2021, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at the regular meeting of the municipality's governing body held on Nov 18, 2021.



Theresa Eberly
Borough Secretary