

OFFICIAL
TOWNSHIP OF LEET
ORDINANCE NO. 2019-02

AN ORDINANCE OF THE TOWNSHIP OF LEET, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA AMENDING THE LEET TOWNSHIP ZONING CODE, CHAPTER 27, PART 6, TO PROVIDE FOR REGULATIONS GOVERNING SPECIAL EXCEPTIONS WITHIN THE TOWNSHIP.

WHEREAS, the Township Commissioners of the Township of Leet have heretofore enacted into law the Leet Township Code of Ordinances, Chapter 27, Part 6, which provides regulations for special exceptions within the Township.

WHEREAS, said regulations were adopted, and are now amended, to accomplish certain objectives, including providing for additional special exceptions heretofore not contemplated by Chapter 27, Part 6.

WHEREAS, it is the desire of the Commissioners of Leet Township to amend the entirety of Chapter 27, Part 6, so as to provide the Township with a comprehensive Ordinance regarding the regulations and requirements for special exceptions within the Township.

NOW, THEREFORE, be it ORDAINED and ENACTED as follows:

That the Leet Township Code of Ordinances, Chapter 27, Part 6, is hereby repealed in its entirety and in lieu thereof, the following is ordained and enacted:

SECTION I.

Part 6
SPECIAL EXCEPTIONS AND CONDITIONAL USES

§ 1 Procedures for Approval.

1. Approval of conditional use. The Board of Commissioners shall hear and decide requests for conditional uses; however, the Board of Commissioners shall not

approve a conditional use application unless and until:

- A. A written application for conditional use approval is submitted to the Township no less than 28 calendar days prior to the regular meeting of the Planning Commission. The application shall indicate the section of this chapter under which conditional use approval is sought and shall state the grounds upon which it is requested. The application shall include the following:
 - (1) A preliminary land development plan, if required by the Township Subdivision and Land Development Ordinance or, if a land development plan is not required, a current property survey indicating all existing and proposed structures and all proposed construction, additions or alterations on the site in sufficient detail to determine the feasibility of the proposed development and compliance with all applicable requirements of this chapter.
 - (2) A written statement showing compliance with the applicable express standards and criteria of this article for the proposed use.
 - (3) In the case of a plan that meets the criteria, a traffic impact study shall be prepared in accordance with the requirements of the Township.
 - (4) The application fee.
- B. A written recommendation is received from the Township Planning Commission or 45 days have passed from the date of the Planning Commission meeting at which the application was first considered as complete and properly filed for approval.
- C. Notice of the public hearing is advertised in accordance with the Municipalities Planning Code (hereinafter "MPC").
- D. A public hearing is conducted by the Board of Commissioners pursuant to public notice requirements and said hearing is scheduled no more than 60 days following the date of submission of a complete and properly filed application, unless the applicant has agreed in writing to an extension of time.
- E. The Board of Commissioners shall render a written decision within 45 days after the final public hearing on the application. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions of law based thereon. Conclusions of law based on any provision of this chapter or any other applicable rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.

- F. Where the Board of Commissioners fails to render a decision within the required 45 days or fails to commence, conduct or complete the required hearing as specified above, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. The Board of Commissioners shall give public notice, as defined herein, of said deemed approval within 10 days from the last day it could have met to render a decision. If the Board of Commissioners shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- G. In considering an application for conditional use approval, the Board of Commissioners may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this article. A violation of such conditions and safeguards, when made a part of the terms and conditions under which conditional use approval is granted, shall be deemed a violation of this chapter and shall be subject to enforcement.
- H. Time limits.
- (1) If the conditional use involves physical improvements that have not been substantially initiated within one year of the date of approval or authorization of the conditional use, the approval shall lapse. The conditional use approval shall also lapse if, after starting construction, the construction is discontinued for a period of one year or more. No physical improvements shall be made after approval lapses unless the approval or authorization is renewed pursuant to **§27-601(1H3)**.
 - (2) If the conditional use does not involve physical improvements and a certificate of occupancy is not issued for the conditional use within one year of the date of approval or authorization, the approval shall lapse. No certificate of occupancy shall be issued after approval lapses unless the approval or authorization is renewed pursuant to **§27-601(1H3)**.
 - (3) The Board of Commissioners may renew its approval of a conditional use for which approval has lapsed, provided that no more than one year has elapsed since the date of the original approval or, in the case of discontinuance of work, since the date of discontinuance. Renewal shall require formal action, including public notice and a hearing. Renewal shall have the same effect as the original approval. If no renewal is granted within the one-year period allowed for renewals, the original approval shall be void and of no further effect.
- I. Expiration of conditional use approval. Conditional use approval shall expire automatically, without written notice to the applicant, if no application for a grading permit, a building permit or a certificate of occupancy to undertake

the construction or authorize the occupancy described in the application for conditional use approval is submitted within 12 months of said approval, unless the Board of Commissioners, in its sole discretion, extends conditional use approval upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be one twelve-month extension.

2. Approval of uses by special exception. The Zoning Hearing Board shall hear and decide requests for uses by special exception. The Zoning Hearing Board shall not approve an application for a use by special exception unless and until:
 - A. A written application for approval of a use by special exception is submitted to the Township. The application shall indicate the section of this chapter under which approval of the use by special exception is sought and shall state the grounds upon which it is requested. The application shall include the following:
 - (1) A current property survey indicating all existing and proposed structures and all proposed construction, additions or alterations on the site in sufficient detail to determine the feasibility of the proposed development and compliance with all applicable requirements of this chapter.
 - (2) A written statement showing compliance with the applicable express standards and criteria of this article for the proposed use.
 - (3) In the case of a plan that meets the criteria, a traffic impact study prepared in accordance with the requirements of the Township.
 - (4) The application fee.
 - (5) A detailed statement demonstrating how the special exception will be beneficial to the public at the proposed location.
 - (6) That the special exception shall be more suitable at the proposed location than on other properties in the same district because of the size, shape, topography, surroundings and physical condition of the proposed location.
 - (7) That the special exception shall not involve any element or cause any element or condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with the performance standards of § **27-701**.
 - (8) That the special exception shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

- (9) The special exception shall be approved by the Zoning Hearing Board, hereinafter referred to as "Board," after public hearing as in the case of variances and exceptions.
 - (10) The special exception must also meet all special regulations or conditions, if same are set forth, for a particular special exception.
 - (11) Traffic. In a residential district, for approval of a special exception, the use shall abut a public street, except where the applicant agrees to pave and widen existing roads as required by the Planning Commission. In Commercial and Manufacturing Districts, all uses shall abut public streets.
 - (12) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
 - (13) The Board may make such other and additional conditions and safeguards as they deem necessary to protect the best interests of the surrounding property or neighborhood.
- B. Written notice of the public hearing shall be sent by first class mail to all property owners within 300 feet of the perimeter of the property for which the application is submitted.
 - C. A public hearing pursuant to public notice requirements shall be conducted by the Zoning Hearing Board within 60 days of submission of a complete and properly filed application unless the applicant has agreed in writing to an extension of time.
 - D. In proceedings involving a request for a use by special exception, both the duty of initially presenting evidence and the burden of persuading the Zoning Hearing Board that the proposed use is available by special exception and satisfies the specific or objective requirements for the grant of a use by special exception as set forth in this chapter rest upon the applicant. The burden of persuading the Zoning Hearing Board that the proposed use will not offend general public interest, such as the health, safety and welfare of the neighborhood, rests upon the applicant.
 - E. In considering an application for approval of a use by special exception, the Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this article. A violation of such conditions and safeguards, when made a part of the terms and conditions under which approval of a use by special exception is granted, shall be deemed a violation of this chapter.
 - F. If land development plan approval is required for the use by special exception, the application for approval of a land development plan required by the Township Subdivision and Land Development Ordinance shall be

submitted to the Township Planning Commission following approval of the use by special exception by the Zoning Hearing Board.

4. Expiration of approval of a use by special exception. Approval of a use by special exception shall expire automatically, without written notice to the applicant, if no application for a land development plan, a grading permit, a building permit or a certificate of occupancy to undertake the construction or authorize the occupancy described in the application for approval of the use by special exception is submitted within 12 months of said approval, unless the Zoning Hearing Board, in its sole discretion, extends approval of the use by special exception upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be one twelve-month extension.

§ 2 Motels. [Ord. 168, 7/10/1978, § 602; as amended by Ord. 260, 3/11/1996, § 27-602]

1. Motels shall be permitted as a special exception in A and B Residential Districts providing:
 - A. No building or part of building shall exceed two stories. Motels shall include a restaurant, providing for dining facilities to patrons seated at tables, and adequate to serve at least the overnight guests of the motel.
 - B. No more than 40% of the ground area of the lot on which the motel is erected shall be occupied by buildings, and the lot shall be completely landscaped and planted with ornamental trees and shrubs.
 - C. No building shall be set nearer than 50 feet to the front, side and rear lot lines.
 - D. There shall be not less than 1,500 square feet of lot area for each sleeping unit. The minimum lot area for a motel shall be one acre.
 - E. At least one off-street parking space of not less than 200 square feet shall be provided on the same lot for each sleeping unit. Access driveways shall be not less than 20 feet wide. All driveways and parking areas shall be paved.
 - F. At least one-half of the sleeping units shall contain a bedroom with bath, having a floor area of not less than 300 square feet and the remaining sleeping units shall contain a bedroom and bath of not less than 240 square feet.
 - G. If the lot upon which a motel is erected abuts a residential district, the motel shall be screened by well-maintained landscaping not less than six feet nor more than 10 feet high or an ornamental fence within the same height limitations, the ratio of the solid portion to the open portion shall not exceed three to one.
 - H. A plot plan and front and side elevations, drawn to scale of the entire

property upon which the motel is to be erected showing the exact location of all buildings, structures, exterior materials, driveways, parking spaces, outdoor lighting, landscaping, signs, and walls or fences shall be submitted to the Board and must be approved by same.

§ 3 Gasoline Stations and Automobile Dealerships. [Ord. 168, 7/10/1978, § 603]

1. Gasoline stations and automobile dealerships shall be permitted as special exceptions in the A and B Residential Districts providing:
 - A. In the case of a gasoline station or garage, there shall be no major repair service on premises.
 - B. All driveways and parking areas shall be paved.
 - C. There shall be no parking of motor vehicles, trucks, tractors or trailers except for purpose of being serviced and for minor repairs and deliveries, limited to a period of eight hours, unless garaged.
 - D. Location, entrances, exits and design of buildings and structures are approved by the Board, and exits are approved by PennDOT if on a state highway.
 - E. No permit shall be issued for the erection or structural alteration of any such building, or for the conversion of any premises for such purposes, unless it is within the proper use district and the plans for such building have been approved by the Zoning Hearing Board. The Board shall not approve plans for such uses that in its judgment will produce excessive noise or endanger public safety or that are located within 200 feet of the nearest point of the adjacent properties.
 - F. No such building, pumps or equipment shall be located within 15 feet of any street line or within 25 feet of an adjacent property line. The Zoning Hearing Board, in passing upon the request of approval, may consider the type of operation employed and may require changes in relation to yards, location of pumps and buildings and construction of buildings as it may deem best suited to insure safety, to minimize traffic difficulties and to safeguard adjacent properties.

§ 4 Oil and Gas Operations

1. Oil and gas operations shall be permitted as a Conditional Use in the “AA” Zoning District, “AAA” Zoning District and “B” Zoning District provided compliance with the regulations set forth in this section.
2. Completeness and Technical Review.
 - A. Before any conditional use application is accepted and the requirements of Conditional Use proceedings begin, a completeness review is required in

order to verify that all requirements of local zoning, land use and the Municipalities Planning Code (“MPC”) are fully addressed in the application materials as follows:

- (1) Meet all requirements detailed in §27-601 Procedures for approval;
- (2) Proof of required bonding;
- (3) Name of company – corporate structure – including all names of all subsidiaries and parent companies;
- (4) Address of company – corporate and local addresses;
- (5) Company contact(s) – including all local contacts’ addresses, phone numbers and emails;
- (6) Signed lease agreements with landowners’ signatures and contact information;
- (7) Proof of applicable insurance bonds specific to each project;
- (8) Location of the proposed facility and all associated operations;
- (9) Number of well pads; number of well heads; proposed construction and drilling schedule;
- (10) Heavy hauling route; number of trucks; schedule;
- (11) The Applicant shall provide plans which include all proposed infrastructure improvements;
- (12) Copies of the required notification letters to landowners;
- (13) Written proof that all landowners have been notified of the proposed project;
- (14) Full documentation of all application and supporting information submitted to the Pennsylvania Department of Environmental Protection (PA DEP), the applicable County Conservation Districts, the United States Environmental Protection Agency (US EPA) and in applicable areas of the Commonwealth, including but not limited to the Allegheny County Health Department (ACHD);
- (15) Full documentation of all permits and supporting information associated with such permits as granted by the PA DEP, all applicable county authorities and/or US EPA.

B. Technical review and conditional use procedures. Once all required

submittals have been received, the Township/Borough shall provide, in writing, a letter to the applicant notifying them that their application has been officially “accepted” and that the technical review stage has commenced, consistent with the Conditional Use proceedings as outlined by the MPC.

3. General Standards for Oil and Gas Development.

- A. A conditional use application shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface of the drill site or demonstrable documentation of the applicant’s authority to occupy the surface for the purpose of mineral extraction. In addition, the application shall include the proposed pipeline route from the oil and gas drill site to the transmission line and how fluids will be brought to and from the site.
- B. Conditional use approval is nontransferable absent consent from the Board of Commissioners, and shall automatically terminate, unless extended, if construction is not commenced within one year from the date of approval of the conditional use. The conditional use approval may be extended by the Board of Commissioners upon written request by the applicant, after notice and hearing. The applicant shall provide proof that the requested conditional use permit for such location has not changed.
- C. The Applicant shall maintain a minimum distance between the gas well and protected structures, as set forth in the table below.

Setback Distances (minimum) from Zoning Districts and Protected Structures	
Zoning Districts and Protected Structures	Setback, feet
“AAA” Residence District	500
“AA” Residence District	500
“B” Residence District	500
Governmental Offices and Parks	1500
Any structure used for Education, Daycare, and Child care,	1500
Hospitals, Nursing Homes, and Assisted Living Facilities	1500

- D. Oil and gas development well sites shall be permitted to occur on property whose overall acreage is a minimum of 10 acres or larger. Multiple property owners can combine adjoining parcels to achieve the minimum acreage required.
- E. As part of the conditional use application, the applicant shall have submitted all necessary applications for permits and plan approvals to the PADEP. Prior to beginning the drilling site construction, the applicant shall submit to the Township a copy of all permits [general permits, well permit(s), joint permits, earth disturbance permit, ESCGP-1, etc.] issued by the PADEP. In addition, the Township shall be provided copies of all plans (erosion and sedimentation control, grading, water management plan, water withdrawal plan, pollution prevention contingency, alternate waste disposal, etc.) required and approved by the PADEP. The Township shall be provided with a timeline and activity schedule. All required permits shall be maintained on-site, commencing at site construction and continuing throughout the duration of drilling and production testing (hydraulic fracturing) operations. Any suspension or revocation of permits or other penalties by the PADEP shall be reported to the Township and shall constitute a violation of Township zoning approval and may result in the suspension of zoning approval.
- F. Water survey requirements. The purpose of testing is to determine the baseline quality and quantity of surface water and groundwater in the immediate vicinity of the proposed well site and to evaluate resultant changes that may occur or have an impact on the water quality of the site and surrounding area. Prior to drilling and post-hydraulic fracturing, the applicant shall be responsible for testing all surface water sources within One Thousand Feet (1,000') of the surface location of the well. In addition, prior to drilling, the applicant will be required to drill a test well outside of the limits of the well pad, but no more than Seven Hundred Fifty feet (750') feet from the well location, to a depth that intersects all known or viable aquifers for the purposes of obtaining a baseline assessment of water quality in the vicinity of the site. The test well shall be located such that it is part of the hydrologic system of the drill site. All testing shall adhere to the following:
- (1) Pre-drilling testing results, both from existing water supplies and from the drilled test well, shall be submitted as part of the conditional use application.
 - (2) Post-hydraulic fracturing testing shall be completed no sooner than one month after hydraulic fracturing activities have ceased and no later than two months after hydraulic fracturing activities have ceased.
 - (3) The post-hydraulic fracturing test results, both from existing water

supplies and from the drilled test well, shall be submitted to the Township and PADEP.

- (4) Water quantity test. If utilization of groundwater sources is proposed, the applicant shall hire a consultant (hydro-geologist) agreed upon by the Township to conduct water quantity testing. The consultant shall submit a pre-testing and a pre-drilling plan to be approved by the Township. The consultant shall test for gallons per minute (gpm) flow rates, yield, groundwater levels, and other pertinent information for all viable aquifer zones via draw down tests or other suitable means. The consultant shall measure and record flow rates in gallons per minute (gpm) for all surface water sources. Groundwater levels and other pertinent information via draw down tests or other suitable means shall be measured from all available wells. Also, GPS coordinate information shall be recorded for all surface water and groundwater sites. The results shall be certified by the hydrologist.
- (5) Water quality test. The applicant shall test for the following list of parameters for all surface water and groundwater. The list is not exhaustive and the Township reserves the right to add additional parameters:

Water Quality Test Parameters	
Inorganics	Alkalinity, Chloride, Conductivity, Hardness, Oil/Grease/Bromide, Ph, Sulfate, Total Dissolved Solids, Residue filterable, Turbidity, Ethylene glycol, Acetone
Trace Metals	Barium, Calcium, Iron, Magnesium, Manganese, Potassium, Sodium, Strontium, Aluminum, Lithium, Selenium, Boron
Organics	Ethane, Methane, Propane, Total petroleum hydrocarbons
Microbes	Total Coliform/E. Coli
Miscellaneous	Volatile Organic Compounds, Detergent (MBAs), Total Organic Carbon, Nitrate, Radionuclides (gross alpha, radium), Radon, Lead, Total Coliform Bacteria

- (6) The applicant shall be responsible for all costs associated with testing, and testing shall be done by an independent, state-certified testing laboratory agreed upon by the Township.
 - (7) All results shall be submitted to the Township and PADEP within 10 days of their receipt.
- G. Water withdrawal plan. The applicant shall provide a water withdrawal plan for the development identifying the source of water, how many gallons will be used and withdrawn each day, the origination of the water, proposed truck routes, and all permits issued by the Commonwealth of Pennsylvania or any other governmental body. If the development is to be supplied by way of waterlines, the locations of all proposed waterlines are to be identified. The site for the treatment and disposal of the water shall also be identified. The use of nonpotable water sources is highly encouraged. The use of injection wells for disposal of fracking fluid is strongly discouraged. The applicant is required to use best management practices.
- H. Waste disposal plan. The applicant shall identify the means and availability of the site for disposal of cuttings, fracturing fluids, oil, toxic materials, hazardous materials and other waste products. Impoundments for the purpose of storing and/or treating frack related waste fluids is prohibited. All such fluids shall be hauled/removed from the Township for treatment/disposal at a permitted location outside of the Township.
- I. Soil survey requirements. Prior to drilling and post-hydraulic fracturing, the

applicant shall be responsible for testing soil conditions within the area of the drill site and said testing shall take place within 500 feet of the surface location of the well. The purpose of testing is to determine the baseline soil conditions in the immediate vicinity of the proposed well site and evaluate resultant changes that may occur or have an impact on the soils of the site and surrounding area.

- (1) Pre-drilling testing results shall be submitted as part of the conditional use application.
- (2) Post-hydraulic fracturing testing shall be completed no sooner than one month after hydraulic fracturing activities have ceased and no later than two months after hydraulic fracturing activities have ceased.
- (3) The applicant shall test for the following list of parameters for soils. The list is not exhaustive and the Township reserves the right to add additional parameters:

Soil Quality Test Parameters	
Inorganics	Alkalinity, Chloride, Hardness, Oil/Grease/Bromide, Ph, Sulfate, Filterable Residue, Nonfilterable Residue, Bromide
Trace Metals	Barium, Calcium, Iron, Magnesium, Manganese, Potassium, Sodium, Strontium, Arsenic, Zinc, Aluminum, Lithium, Selenium, Boron
Microbes	Total Coliform/E-Coli
Miscellaneous	Volatile organic compounds, Nitrate, Radionuclides (gross alpha, radium), Lead

- (4) The applicant shall be responsible for all costs associated with sample collection and testing and testing shall be done by an independent state-certified testing laboratory agreed upon by the Township.
 - (5) The results shall be submitted to the Township and PADEP within 10 days of their receipt.
- J. Environmental impact analysis. The applicant shall provide an environmental impact analysis. The environmental impact analysis shall describe, identify and analyze all environmental aspects of the site and of neighboring properties that may be affected by the proposed operations or the ultimate use proposed to be conducted on the site. The limits of the impact area to be studied shall be reviewed and approved by the Township. The environmental

impact study shall include, but not be limited to, all critical impact areas on or off site that may be impacted by the proposed or ultimate use of the facility, including the impact on the critical areas, the protective measures and procedures to protect the critical areas from damage, and the actions to be taken to minimize environmental damage to the critical areas of the site and the surrounding areas during and after completion of the operation. Critical impact areas include, but are not limited to, stream corridors; streams; wetlands; slopes in excess of 25%; sites where there is a history of adverse subsurface conditions or where available soils information or other geotechnical data, including data from the Bureau of Mines, indicates the potential for landslides, subsidence or other subsurface hazards; Class 1 agricultural lands; highly acidic or erodible soils; carbonate or highly fractured bedrock; aquifer recharge and discharge areas; and areas of unique or protected vegetation, wildlife habitat and areas of historic, cultural and/or archaeological significance.

- K. Air quality study. The applicant shall provide an air quality study. The study shall be prepared by experts acceptable to the Township and submitted with the application and shall include an analysis of the existing and predicted air quality levels, including smoke, odors, fumes, dust and pollutants at the site. This report shall contain the sources of the information, the data and background tests that were conducted and the conclusions and recommendations of the professionals preparing the report that would be required to maintain the air quality at a level equal to or better than the existing background level prior to the proposed use; or the applicant/developer shall submit a statement prepared by an engineer warranting that the nature of the use will produce no impact on air quality.
- L. Existing gas infrastructure plan. The applicant shall provide a plan for the transmission of gas from the development. The plan will identify gathering lines, compressors and other mid-stream and down-stream facilities located within the Township and extending 800 feet beyond the Township boundary. This is not an exhaustive list, and the Township reserves the right to request that further information be identified on the plan.
- M. Access directly to state roads shall require Pennsylvania Department of Transportation (PADOT) highway occupancy permit approval. Prior to initiating any work at a drill site, the Township shall be provided a copy of the highway occupancy permit.
- N. Traffic impact study.
 - (1) The proposed routes must be designed to minimize the impact on streets within the Township. The Township reserves the right to designate alternate routes in the event that the applicant's proposed routes are deemed inadequate, unsafe or overly disruptive to normal vehicular traffic by the Township. Vehicles are to operate on state

roads and may only use Township roads when the use of state roads is not feasible. The applicant shall coordinate truck routes with the school bus schedule so as to minimize interference with transportation of students to and from school.

- (2) Prior to commencement of any activity at the development or facility, the applicant shall enter into a Township roadway maintenance and repair agreement with the Township, in a form acceptable to the Township, regarding maintenance, repair and bonding of Township roads that are to be used by vehicles for development activities. The applicant shall take all necessary corrective action and measures as directed by the Township pursuant to the agreement to ensure the roadways are repaired and maintained during and at the conclusion of all development activities.
- (3) The applicant shall take all necessary precautions to ensure that the Township roads utilized remain free of dirt, mud and debris resulting from development activities and/or shall ensure such roads are promptly swept and cleaned of dirt, mud and debris.
- (4) The applicant shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example, persons waiting for transportation). Where necessary and allowed, during periods of anticipated heavy or frequent truck traffic associated with the development of the facility, the applicant will provide flagmen to ensure the public safety and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.
- (5) There will be no staging of trucks or equipment on local roads.
- (6) A traffic control plan in conformance with PennDOT standards shall be provided.

O. Standing area.

- (1) An off-street area, at the entrance to the drill site and outside of the public right-of-way, shall be provided for vehicles to stand while gaining access to the roadway so that normal flow of traffic on the public street is undisturbed. Driveways accessing the drill site shall be paved with an impervious material from the public street cart-way fifty feet (50') into the drill site. The impervious material shall be in place prior to the commencement of the drilling operation. The first 50 feet from the existing edge of pavement extending fifty feet (50') into the site shall consist of the following minimum standards:
 - (a) Compacted subgrade.

- (b) PADOT Class 4 geo-textile fabric.
 - (c) Eight-inch (8") AASHTO No. 1 crushed aggregate base course.
 - (d) Two-inch (2") PADOT 2A aggregate (choke material).
 - (e) Four-inch (4") (compacted) Superpave Twenty-five Millimeter (25mm) base course.
 - (f) Two inches of Superpave 19mm binder course.
 - (g) Two inches of Superpave 9.5mm wearing course.
- (2) The remainder of the driveway to the well pad shall be constructed of the following minimum standards:
- (a) Compacted subgrade.
 - (b) Eight-inch AASHTO No. 1 crushed aggregate base course.
 - (c) Two-inch PADOT 2A aggregate (choke material).
- (3) Proper and adequate stormwater runoff controls for driveways shall be installed to prevent concentration of runoff onto adjacent properties or public streets.
- P. As part of the conditional use application, the applicant/owner shall provide the Township and Fire Department with a copy of the PADEP approved preparedness, prevention and contingency (PPC) plan. The applicant shall, prior to drilling its first gas well in the Township, make available with at least 30 days' notice, at the applicant's sole expense, one appropriate group training program for emergency responders. Such training shall be made available at least annually during any year that drilling activities take place at approved drill sites.
- (1) The applicant shall maintain at the property and on file with the Township a current list and the Material Safety Data Sheets (MSDS) for all chemicals used in the drilling operations (including, but not limited to, types of additives, acids, polymers, salts, surfactants and solvents) and in any fracturing operations.
- Q. As part of the conditional use application, the Township and emergency management services shall be provided the name of the person supervising the drilling operation and a phone number where such person can be reached 24 hours per day. Also, a list of contact information for all subcontractors associated with the oil and gas drilling operations must be provided.

- R. The access driveway off the public road to the drill site shall be gated at the entrance to prevent illegal access into the drill site. The drill site assigned address shall be clearly visible on the access gate for emergency purposes. In addition, the sign shall include the well name and number, name of the operator and the telephone number for a person responsible who may be contacted in case of emergency. In lieu of a gate, the applicant can provide twenty-four hours/seven days per week security on site during the drilling operation.
- S. Lighting. No drill site lighting used for or associated with the drilling operation shall be positioned or directed in such a manner so that it shines directly upon public roads, adjacent property or property in the general vicinity of the drill site. Site lighting shall be directed downward and shielded so as to avoid glare on public roads and adjacent properties. Lumen levels shall not exceed zero foot-candle at the property line.
- T. Dust, vibration, odors. All drilling operations shall be conducted in such a manner as to minimize dust, vibration or noxious odors. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying effects are minimized by the operations carried out at the drill site to avoid injury to or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe.
- U. Noise. The Township may require acoustical blankets, sound walls, mufflers or other alternative methods as proposed by the applicant to ensure compliance depending on the location of a proposed drill site to adjacent properties. As part of the conditional use application, and prior to beginning the drill operation, the applicant shall establish the residual or background noise level baseline. The baseline shall be established over a seventy-two-hour period with at least one twenty-four-hour reading on a Saturday or Sunday. A noise consultant/engineer mutually agreed upon by the Township and applicant will be responsible for determining the residual background noise level baseline. The applicant, owner/operator shall be responsible for all costs associated with the noise consultant/engineer.
- (1) An acoustics study shall be prepared and submitted with the application. The study shall be prepared by an acoustics expert(s) acceptable to the Township. The study shall identify the existing background level of noise and the anticipated noise impact from the proposed use. The report shall contain measures of existing ambient measurements, estimates of the noise measurements to be anticipated from the type of operations and equipment that are proposed for the use and if there are any significant increases in those noise levels. The report shall also contain specific proposals that are intended to reduce noise levels emanating off of the site.

- (2) The study shall be based upon actual sound-level measurements and estimates of potential noise impact at the property lines of the site of the proposed use; or the applicant/developer shall submit a statement prepared by an engineer indicating that the nature of the use will produce no impact on acoustics, in regards to the standards of this section.
 - (3) The noise level shall be established by a test performed during a continuous seventy-two-hour time span, which shall include at least on twenty-four hour reading during either a Saturday or Sunday. The testing shall be done by a qualified noise control engineer or other qualified person approved by the Township and shall be in accordance with specifications ANSI S12.18-1994 Method II and ANSI S1.4-1971. The Township reserves the right to hire a third-party consultant to witness testing and review the results, at the sole expense of the applicant. The sound-level meters used shall meet the American National Standards Institute's standard for Type 1 sound-level meter.
 - (4) If a noise complaint is received by the Township, the applicant shall be notified and required to address the issue. In the event repeated complaints are received, the applicant shall be required, within 24 hours of notice, to continuously monitor noise for a forty-eight-hour period at the location of the complaint. The results shall be submitted to the Township within 10 days of their receipt. In the event the results do not conform to the approved noise management plan, the applicant shall be required to immediately address the issue to achieve compliance.
- V. At the time of the conditional use application, a survey of the drill site showing the general area where associated gas production equipment (tanks or other surface installations) will be located and locations and distances to property lines shall be filed with the application. All sensitive natural features, including but not limited to waterways, wetlands, steep slopes, and floodplains, including those One Hundred Feet (100') outside the limits of disturbance, as defined on the approved PADEP erosion and sedimentation plan, must also be shown.
- W. Any on-site associated gas production equipment (well head, separator, condensate tanks, and pipeline) shall be painted an earth tone color to blend in with the surrounding area. An earth tone color shall be neutral colors and include sand, gray, green and unobtrusive shades of brown, or other neutral colors, as approved by the Township.
- X. The Township may, at its sole discretion, require permanent fencing and/or landscaping to buffer the post-drilling facilities or gas production equipment

from adjacent properties.

- Y. Any damage to public property caused by such operations must be repaired and restored within 60 days of completing the drilling operation or as agreed to by the Township. The repairs shall meet or exceed prior conditions. If repairs are not completed within such time, the applicant shall provide the Township with such financial security as is necessary to ensure that the work shall be completed. The amount of security shall not exceed 110% of the total cost of the work.
- Z. After any spill, leak or malfunction, the applicant shall remove, or cause to be removed to the satisfaction of the Township, the Fire Chief and the PADEP, all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately upon knowledge that a spill, leak or malfunction has occurred. The Township and PADEP shall be immediately alerted to any spills, leaks or malfunctions.
- AA. The public street entrance at the property on which a drill site is located shall at all times be kept free of mud, debris, trash or other waste materials.
- BB. The facility and/or its operation shall comply with all applicable permits and requirements of the PADEP, the United States Environmental Protection Agency, and any other governmental authority having jurisdiction over its operations and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters.
- CC. The applicant or drill site operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossings and/or adjacent to roadways during periods of anticipated heavy or frequent truck traffic to and from the drill site. Flagmen shall be present and used to ensure the safety of motorists and pedestrians and take measures that may include adequate signs and/or other warning measures for truck and vehicular traffic.
- DD. All drill site construction (grading, installation of erosion and sedimentation controls, roadway construction, etc.) shall be done between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
- EE. Storage of equipment.
 - (1) No equipment, including drilling, redrilling, reworking or other portable equipment, shall be stored on the development or facility which is not essential to the everyday operation of the development or facility. This includes the removal of idle equipment unnecessary for the operation of wells.
 - (2) Lumber, pipes, tubing and casing shall not be left on the development

or facility except when drilling or well-servicing operations are being conducted on the site.

- (3) It shall be illegal to park or store any vehicle or item of machinery on any Township street, right-of-way or in any driveway, alley or on the development or facility which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires, except that equipment which is necessary for the maintenance of the development or facility or for the gathering or transporting of hydrocarbon substances from the site.

FF. Screening and buffering.

- (1) The applicant shall submit a general landscaping plan, including foundation planting around structures. Any landscaping strip along a right-of-way shall be composed of plantings that will not block clear views for vehicles entering or leaving the premises.
- (2) In construction of the oil and gas development or facility, the natural surroundings shall be considered and attempts made to preserve existing trees and other native vegetation. Existing trees and respective root systems should not be disturbed whenever possible.
- (3) Any development which abuts a residential use shall provide a ten-foot buffer strip along the affected boundary line(s). All plants shall be selected from species that are hardy in the area and shall be of sound nursery stock. Developers will have two options for the buffer strip:
 - (a) Type 1 buffer: to consist of a double row of native evergreen conifers and/or American holly planted at oblique lines to one another so that a continuous screen is provided. All trees shall be a minimum of six feet in height at the time of planting. Trees which die shall be replaced within six months.
 - (b) Type 2 buffer: to consist of a single row of any species of coniferous tree, shrub or plant that will block a line of sight from the level of existing grade to at least six feet in height at the time of planting.

GG. During the active operation of a drill site, Township staff or consultants designated by the Township Manager shall have access to the site upon prior request to determine continuing compliance with the conditional use approval.

HH. The applicant shall notify the Emergency Management Coordinator, Township and Township Engineer no less than 90 days prior to the startup

and abandonment or shutdown of any well site.

- II. The applicant shall reimburse the Township for all reasonable and direct professional consultant fees incurred by the Township related to site inspection, approval process, or for specialized work called for in the permit.
 - JJ. The Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and welfare of its residents so that it may address any unique characteristics of a particular drilling site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (MPC).
 - KK. Performance guarantee. The applicant shall submit a performance bond in an amount to be determined by the Township Engineer to guarantee installation of the access road, fencing, gate and any other site features not otherwise bonded by the PADEP, as required by the Township Zoning Ordinance.
 - LL. Insurance. The applicant shall furnish to the Township a certificate of liability insurance naming the Township and the Township Engineer as additional insureds with respect to operations conducted within the Township, showing proof of liability insurance covering commercial, personal injury, and general liability in amounts not less than \$25,000,000 per occurrence. The applicant shall fully defend, protect, indemnify, and hold harmless the Township, its departments, agents, officers, employees, or volunteers from and against such and every claim, except for those claims relating to any negligent, willful or intentional acts of the Township, its department, agents, officers, employees, or volunteers. The insurance coverage may consist of a combination of self-insurance, excess coverage and umbrella coverage.
 - MM. Indemnification and express negligence provisions. The applicant shall fully defend, protect, indemnify, and hold harmless the Township, its departments, officials, officers, agents, employees and contractors from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, legal and expert fees, and expenses incurred in defense of the Township, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by any third parties on account of, arising out of, or in any way incidental to or in connection with the performance by the operator.
4. Compressor stations.
- A. Compressor stations shall only be permitted on properties that are a minimum of five acres in size or larger. The applicant shall strive to consider locations for its temporary and permanent operations where prudent and

possible so as to minimize interference with Township residents' enjoyment of their property and future Township development activities. The applicant must present expert witness testimony to demonstrate the location of the facility will not unreasonably and/or adversely affect any of the following:

- (1) Lawful existing or authorized uses of adjacent properties.
 - (2) Neighboring flood-prone or landslide-prone areas.
 - (3) Agriculture and farmland.
- B. A conditional use application for a compressor station shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface rights of the property or a court order recognizing the applicant's authority to occupy the surface. If the applicant owns the property, proof of ownership must be provided.
- C. Conditional use approval is nontransferable absent consent from the Board of Commissioners, and shall automatically terminate, unless extended, if substantial construction is not commenced and sustained within one year from the date of approval of the conditional use. The conditional use approval may be extended by the Board of Commissioners upon written request by the applicant. The applicant shall provide proof that the requested conditional use permit for such location has not changed.
- D. As part of the conditional use application, the Township and emergency management services shall be provided the name of the person supervising the compressor station and a phone number where such person can be reached 24 hours per day. Also, a list of contact information for all subcontractors associated with the operations of the station must be provided. The list shall include verification that all supervisors/operators and subcontractors at the site are aware of and understand this section.
- E. All compressor stations shall be completely enclosed by a building.
- (1) The building shall be constructed in such a way that the architectural character complements the existing character of the area. The building shall employ architectural features, such as but not limited to, sloped roofs, stone and brick accents, steeples, cupolas, etc.
 - (2) The building shall employ soundproof-type walls, and all equipment associated with the compressor station shall be enclosed within the building. All acoustical structures shall be constructed of metal, masonry, or other structurally sound material as approved by the Township.
- F. Access directly to state roads shall require Pennsylvania Department of

Transportation (PADOT) highway occupancy permit approval. Prior to initiating any work at the station, the Township shall be provided a copy of the highway occupancy permit. Access roads shall also comply with the following:

- (1) Access roads must be fifty (50') feet from adjacent property lines unless written consent is obtained from the adjacent property owner.
 - (2) The first fifty feet (50') feet of the access road must be paved. The next One Hundred-fifty feet (150') feet of the access road must be made of limestone and constructed in a manner that reasonably minimizes the opportunity for water, sediments, or debris to be carried onto any public road.
 - (3) If the access road is less than Two Hundred feet (200'), the entire road must be limestone and constructed as described in Section (3)(F)(2), above.
- G. The access driveway off the public road to the station shall be gated at the entrance to prevent illegal access into the site. The site assigned address shall be clearly visible on the access gate for emergency purposes. In addition, the sign shall include the station name and number, name of the operator and the telephone number for a person responsible who may be contacted in case of emergency.
- H. Pipelines associated with the compressor station. The applicant shall provide the Township with all state and federal permits that have been acquired, and bonding agreements, and proof of ability to operate such pipelines.
- I. Compressor stations shall utilize electric motors rather than internal combustion engines. The Board of Commissioners may approve the use of internal combustion engines as part of the conditional use approval if deemed to be absolutely necessary, due to the prolonged lack of availability of electrical service. However, any exhaust from any internal combustion engine or compressor used in connection with the station, used by any production equipment, or used in development shall not be discharged into the open air unless it is equipped with an exhaust muffler or an exhaust box. The exhaust muffler or exhaust box shall be constructed of noncombustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to the manufacturer's specifications.
- J. Drip pans must be placed in any location, including under equipment, that has the potential to leak.
- K. All condensate tanks shall be equipped with vapor recovery and/or vapor

destruction units.

- L. Compressor stations shall be inspected by the Fire Department prior to operation. During the active operation of the compressor station, the Township shall have access to the site upon request to determine continuing compliance with the conditional use approval.
- M. The Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and general welfare of its residents so that it may address any unique characteristics of a particular compressor station site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (MPC).

5. Processing plants.

- A. Processing plants shall only be permitted to occur on properties that are a minimum of five (5) acres in size or larger. The applicant shall strive to consider locations for its temporary and permanent operations where prudent and possible so as to minimize interference with Township residents' enjoyment of their property and future Township development activities. The applicant must present expert witness testimony to demonstrate the location of the facility will not unreasonably and/or adversely affect any of the following:
 - (1) Lawful existing or authorized uses of adjacent properties.
 - (2) Neighboring flood-prone or landslide-prone areas.
 - (3) Agriculture and farmland.
- B. A conditional use application for a processing plant shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface rights of the property or a court order recognizing the applicant's authority to occupy the surface. If the applicant owns the property, proof of ownership must be provided.
- C. Conditional use approval is nontransferable absent consent of the Board of Commissioners, and shall automatically terminate, unless extended, if substantial construction is not commenced and sustained within one year from the date of approval of the conditional use. The conditional use approval may be extended by Council upon written request by the applicant. The applicant shall provide proof that the requested conditional use permit for such location has not changed.
- D. As part of the conditional use application, the Township and emergency management services shall be provided the name of the person supervising

the processing plant and a phone number where such person can be reached 24 hours per day. Also, a list of contact information for all subcontractors associated with the operations of the plant must be provided. The list shall include verification that all supervisors/operators and subcontractors at the site are aware of and understand this section.

- E. Access directly to state roads shall require Pennsylvania Department of Transportation (PADOT) highway occupancy permit approval. Prior to initiating any work at the plant, the Township shall be provided a copy of the highway occupancy permit. Access roads shall also comply with the following:
 - (1) Access roads must be Fifty feet (50') from adjacent property lines unless written consent is obtained from the adjacent property owner.
 - (2) The first Fifty feet (50') of the access road must be paved. The next One Hundred Fifty feet (150') of the access road must be made of limestone and constructed in a manner that reasonably minimizes the opportunity for water, sediments, or debris to be carried onto any public road.
 - (3) If the access road is less than Two Hundred feet (200'), the entire road must be limestone and constructed as described in Section (4)(E)(2), above.
- F. The access driveway off the public road to the plant shall be gated at the entrance to prevent illegal access into the site. The site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the plant name and number, name of the operator and the telephone number for a person responsible who may be contacted in case of emergency.
- G. The applicant shall provide the Township with all state and federal permits that have been acquired, and bonding agreements, and proof of ability to operate such pipelines.
- H. Processing plants shall utilize electric motors rather than internal combustion engines. The Board of Commissioners may approve the use of internal combustion engines or compressors as part of the conditional use approval if deemed to be absolutely necessary, due to the prolonged lack of availability of electrical service. However, any exhaust from any internal combustion engine or compressor used in connection with the plant, used by any production equipment, or used in development shall not be discharged into the open air unless it is equipped with an exhaust muffler or an exhaust box. The exhaust muffler or exhaust box shall be constructed of noncombustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to the manufacturer's

specifications.

- I. Drip pans must be placed in any location, including under equipment, that has the potential to leak.
 - J. All condensate tanks shall be equipped with vapor recovery and/or vapor destruction units.
 - K. Processing plants shall be inspected by the Fire Department prior to operation. During the active operation of the processing plant, Township staff or consultants designated by the Township Manager shall have access to the site to determine continuing compliance with the conditional use approval.
 - L. The Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and general welfare of its residents so that it may address any unique characteristics of a particular processing plant site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (PAMPC).
6. Impoundments, subject to.
- A. Impoundments for the purpose of storing and/or treating frack related waste fluids are prohibited. All such fluids shall be hauled/removed from the Township for treatment/disposal at a permitted location outside of the Township.
 - B. Impoundments for storage of fresh water shall be allowed only on the parcel/property where drilling is occurring, as an accessory use.

**§ 5 Mobile Home Parks, Planned Residential, Commercial and Industrial Projects.
[Ord. 168, 7/10/1978, § 604]**

- 1. The regulations set forth in this section are adapted to encourage original and imaginative design patterns in the remaining reservoirs of open space within the Township and preserve the sense of space which is so inviting in the Township at the present time. The use of planned projects should be given favorable consideration in cases where a rigid pattern of development would create substantial difficulties in the installation and servicing of utilities or roads and destroy these natural site amenities. The flexibility afforded by provisions should produce pleasant results and permit the Township to acquire open land in a manner heretofore not possible. For example, flexibility would provide a mechanism for encouraging dedication of land for parks and permitting the preservation of contiguous steep slope areas.
 - A. The Township Board of Commissioners may permit mobile home parks,

planned residential, commercial and industrial, projects, hereinafter referred to as "projects," as conditional uses or special exceptions if the project meets the following requirements:

- (1) The area of land to be developed is not less than five acres.
 - (2) Must meet the performance standards under Part 7.
 - (3) The average density of the project is not greater than the density requirements in the district in which the plan is located.
 - (4) The use of the land does not differ substantially from the uses permitted in the district, except that limited commercial facilities intended to serve only the project area and fully integrated into the design of the project may be considered.
 - (5) The complete plan for the project is submitted for review of the Township Board of Commissioners. Final approval of the plan shall be obtained from the Township Board of Commissioners before recording the plan with the Recorder's Office of Allegheny County. The Township Board of Commissioners shall also determine if the proposed project is consistent with the Township's master plan and the best interest and welfare of the Township.
- B. If the interest of promoting better land use than might be possible with conventional controls, the Planning Commission in its review of an application of a project shall consider the following standards:
- (1) The protection of surrounding properties, persons and neighborhood values. Particular care should be taken to respect existing and future development on neighborhood property. No project shall be approved which shall have a detrimental effect on neighboring properties.
 - (2) The provisions for future public education, recreation, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation.
 - (3) The preservation of existing site amenities such as trees, ground cover, topsoil, streams, rock outcroppings and scenic or historic sites from ruin caused by indiscriminate grading for street and site improvements.
 - (4) Preservation of permanent natural areas suitable for use as recreational or scenic open space either by the owners in a particular subdivision or the public and Township at large.
- C. The maximum number of dwellings permitted in a project and/or planned

residential development shall not exceed the total allowable units for the density of the project area and the zoning district.

- D. In order to promote the health and general welfare of the Township and to preserve and make available open space, the Township Planning Commission may grant a developer the right to transfer density by varying lot areas and lot widths, subject to final approval obtained from the Township Board of Commissioners.

§ 6 Public Hearings for Planned Residential Developments. [Ord. 168, 7/10/1978, § 605; as amended by Ord. 260, 3/11/1996, § 27-605]

1. Within 60 days after the filing of an application for tentative approval of a planned residential development pursuant to this chapter, a public hearing pursuant to public notice on said application shall be held by the Board of Commissioners.
2. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board of Commissioners. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
3. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board of Commissioners, and any other person including civic or community organizations permitted to appear by the Board of Commissioners. The Board of Commissioners shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board of Commissioners for that purpose.
4. The chairman, or acting chairman in the absence of the chairman, of the Board of Commissioners shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
7. The Board of Commissioners shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board of Commissioners. The cost of the original transcript shall be paid by the Board of Commissioners if the transcript is ordered by the Board of Commissioners.

or shall be paid by the person appealing from the decision of the Board of Commissioners if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

8. The Board of Commissioners shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
9. The Board of Commissioners may continue the hearing from time to time, and may refer the matter back to the Planning Commission for a report; provided, however, that in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

§ 7 The Findings for Planned Residential Developments. [Ord. 168, 7/10/1978; as added by Ord. 260, 3/11/1996, § 27-606]

1. The Board of Commissioners within 60 days following the conclusion of the public hearing shall, by official written communication to the landowner, either:
 - A. Grant tentative approval of the development plan as submitted.
 - B. Grant tentative approval subject to specified conditions not included in the development plan as submitted.
 - C. Deny tentative approval to the development plan.
2. Failure to so act with said sixty-day period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the Board of Commissioners notify such Board of Commissioners of his refusal to accept all said conditions, in which case, the Board of Commissioners shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Board of Commissioners of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.
3. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not

limited to, findings of fact and conclusions on the following:

- A. In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the Township.
 - B. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
 - C. The purpose, location and amount of the common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
 - D. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.
 - E. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established.
 - F. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.
4. In the event a development plan is granted tentative approval, with or without conditions, the Board of Commissioners may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three months and, in the case of development over a period of years, the time between applications for final approval of each part of a plan shall be not less than 12 months.

§ 8 Status of Plan After Tentative Approval for Planned Residential Developments. [Ord. 168, 7/10/1978; as added by Ord. 260, 3/11/1996, § 27-607]

1. The official written communication shall be certified by the Township Secretary and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed an amendment to

the zoning map, effective upon final approval, and shall be noted on the zoning map.

2. Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, to which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by the action of the Township pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.
3. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Board of Commissioners in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the zoning map and in the records of the Township Secretary.

§ 9 Application for Final Approval for Planned Residential Developments. [Ord. 168, 7/10/1978, § 607; as amended by Ord. 260, 3/11/1996, § 27-608]

1. An application for final approval may be for all the land included in a project or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Zoning Officer of the Township within the times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bonds and such other requirements as may be specified by this chapter or any other ordinance of the Township, as well as any conditions set forth in the official written communications by the Township Board of Commissioners at the time of tentative approval. A public hearing on application for final approval of the project, or part thereof, shall not be required provided the project, or part thereof, submitted for final approval is in compliance with the project theretofore given tentative approval and with any specified conditions attached thereto.
2. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by this chapter and the official written communication of tentative approval, the Township Board of Commissioners shall, within 30 days of such filing, grant such

project final approval.

3. In the event the project as submitted contains variations from the project given tentative approval, the Township Board of Commissioners may refuse to grant final approval and shall, within 30 days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:
 - A. Refile his application for final approval without the variations objected.
 - B. File a written request with the Township Board of Commissioners that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, or within 30 days additional if the time for applying for final approval shall have already passed at the time when the landowner was advised that the project was not in substantial compliance. In the event that the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the project. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this chapter for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the Township Board of Commissioners shall by official written communication either grant final approval to the project or deny final approval. The grant or denial of final approval of the project shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this chapter.
4. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Township Board of Commissioners and shall be filed of record forthwith in the office of the recorder of deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provisions stated in § 508 of the MPC, 53 P.S. § 10508, of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with the provisions of § 513(a) of the MPC, 53 P.S. § 10513(a), and post financial security in accordance with § 509 of the MPC, 53 P.S. § 10509, and in accordance with the Township's subdivision regulations.
5. In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Board of Commissioners in writing;

or, in the event the landowner shall fail to commence and carry out the planned residential development in accordance with the time provisions stated in § 508 of the MPC, 53 P.S. § 10508, after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to this chapter in the manner prescribed for such amendments in Article VI of the MPC, 53 P.S. § 10601 et seq., and this chapter.

§ 10 Communications Antennas. [Ord. 2016-07, 11/14/2016]

1. General and Specific Requirements for Communications Antennas.
 - A. The following regulations shall apply to all communications antennas, except those operated by a federally licensed amateur radio operator:
 - (1) Standard of Care. All communications antennas shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most-recent editions of the Pennsylvania Uniform Commercial Code, American National Standards Institute (ANSI) Code, and National Electrical Code. Any communications antennas shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
 - (2) Permitted in all Zoning Districts Pursuant to Regulations. Communications antennas are permitted pursuant to this chapter in all zoning districts, so long as they comply with all of the terms and conditions of this chapter.
 - (3) Historic Areas. No communications antenna may be located upon any property, building, or structure that is listed on either the National or Pennsylvania Register of Historic Places (either inside or outside the public rights-of-way) or that is deemed by the Township to be of specific historical significance.
 - (4) Wind. All communications antennas structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/TIA-222, as amended).
 - (5) Aviation Safety. Communications antennas shall comply with all federal and state laws and regulations concerning aviation safety.

- (6) Public Safety Communications and Other Communications Services. Communications antennas shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (7) Radio-Frequency Emissions. A communications antenna shall not, by itself or in conjunction with other communications antennas and/or communications towers, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (8) Removal. In the event that use of a communications antenna is discontinued, the owner 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 communications antennas, or portions of communications antennas, shall be removed as follows:
 - (a) All abandoned or unused communications antennas and related equipment shall be removed within two months of the cessation of operations at the site, unless a time extension is approved by the Township.
 - (b) If the communications antenna or related equipment is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the communications antenna and/or related equipment may be removed by the Township. As security, the Township reserves the right to the salvage value of any removed communications antenna and/or related equipment, if such communications antenna and/or related equipment are not removed by the owner within the specific time frame enumerated in this section.
- (9) Insurance. Each person that owns or operates a communications antenna shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and 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 communications antenna.
- (10) Indemnification. Each person that owns or operates a communications antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and

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

(11) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- (a) The communications antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
- (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
- (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

(12) Removal, Replacement and Modification.

- (a) To the extent permitted by law, the removal and replacement of communications antennas and/or related equipment for the purpose of upgrading or repairing the communications antenna is permitted, so long as such repair or upgrade does not substantially change the overall size of the wireless support structure or the numbers of communications antennas.
- (b) To the extent permitted by state law, any material modification to a communications antenna shall require notice to be provided to the Township and possible supplemental permit approval to the original permit or authorization.

2. Communications Antennas Falling Under the Wireless Broadband Collocation Act.

A. In addition to the regulations enumerated in Subsection 1A, the following

regulations shall apply to communications antennas that fall under the Pennsylvania Wireless Broadband Collocation Act:

- (1) Permit Required. Communications antenna applicants proposing changes to an existing communications tower, which do not substantially change the dimensions of the existing wireless support structure or otherwise fall under the WBCA, shall obtain a building permit from the Township. In order to be considered for such a permit, the applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.
- (2) Timing of Approval for Applications that Fall Under the WBCA. Within 30 calendar days of the date that an application for a communications antenna is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant, in writing, of such decision.
- (3) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a communications antenna or \$1,000, whichever is less.

3. Communications Antennas that Do Not Fall Under the Wireless Broadband Collocation Act.

A. In addition to the regulations enumerated in Subsection 1A above, the following regulations shall apply to communications antennas that do not fall under the Pennsylvania Wireless Broadband Collocation Act:

- (1) Prohibited on Certain Structures. No communications antenna shall be located on single-family residences, duplexes, or townhomes.
- (2) Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the communications antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these communications antenna provisions. The applicant and/or owner of the communications antenna shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (3) Permit Fees. The Township may assess appropriate and reasonable

permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a communications antenna, as well as related inspection, monitoring and all other related costs.

- (4) Development Regulations. Communications antennas shall be co-located on existing wireless support structures, subject to the following conditions:
 - (a) The total height of any wireless support structure and mounted communications antenna shall not exceed 20 feet above the maximum height permitted in the underlying zoning district.
 - (b) In accordance with industry standards, all communications antenna applicants must submit documentation to the Township justifying the total height of the communications antenna. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (c) If the applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district, and landscaping shall be required to screen as much of the equipment building as possible. An evergreen screen shall surround the site. The evergreen screen shall be a minimum height of six feet at planting and shall not exceed 10 feet on center.
- (5) Security Fence. A security fence with a maximum height of eight feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building, or any structure housing related equipment, shall not interfere with the parking or vehicular circulation on the site for the principal use.
- (6) Noncommercial Usage Exemption. Township residents utilizing satellite dishes and antennas for the purpose of maintaining television, phone, radio and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of this chapter. Amateur radio operators are exempt from the regulations enumerated in this section.
- (7) Design Regulations. Communications antennas shall employ stealth technology and be treated to match the wireless support structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the applicant shall be subject to the approval of the Township.

- (8) Inspection. The Township reserves the right to inspect any communications antenna to ensure compliance with the provisions of this chapter and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a communications antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.

4. Communications Antennas Located in the Public Rights-of-Way.

- A. In addition to the regulations enumerated in Subsection 1A, the following regulations shall apply to communications antennas located in the public rights-of-way:

- (1) Co-location. Communications antennas in the ROW shall be co-located on existing infrastructure, such as existing utility poles or light poles. If co-location is not technologically feasible, the applicant, with the Township's approval, shall locate its communications antennas on existing poles or freestanding structures that do not already act as wireless support structures.
- (2) Special Exception Approval Required. Any applicant proposing the construction of a new communications antenna, or modification of an existing communications antenna, shall first obtain special exception authorization from the Township. New constructions, modifications, and replacements that fall under the WBCA or the applicable provisions of the FCC's October 2014 Report and Order shall be not be subject to the special exception process. The special exception application, and accompanying documentation, shall demonstrate that the proposed facility complies with all applicable provisions in this chapter.
- (3) Design Requirements.
 - (a) Communications antenna installations located above the surface grade in the public ROW, including, but not limited to, those on streetlights and utility poles, shall consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - (b) Communications antennas and related equipment shall be treated with stealth technology by the communications antenna owner or applicant to match the wireless support structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure

upon which they are mounted.

- (4) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications antennas in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (5) Equipment Location. Communications antennas and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW, as determined by the Township. In addition:
 - (a) Ground-mounted related equipment shall be located between the sidewalk and the curb. For reasons of safety and aesthetics, such equipment shall neither protrude onto the curb nor obstruct the sidewalk.
 - (b) Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features, to the satisfaction of the Township.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on any wireless support structures or any related equipment shall be removed at the sole expense of the owner.
 - (e) Any proposed underground vault related to communications antennas shall be reviewed and is subject to approval by the Township.
- (6) Relocation or Removal of Facilities. Within two months following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, the owner of a communications antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications antenna 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 the following circumstances:

- (a) The construction, repair, maintenance or installation of any Township or other public improvement 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; or
- (d) An emergency as determined by the Township.

§ 11 Communications Towers. [Ord. 2016-07, 11/14/2016]

1. General and Specific Requirements for All Communications Towers.

A. The following regulations shall apply to all communications towers, excluding any communications tower that is owned and operated by a federally licensed amateur radio operator:

- (1) **Standard of Care.** Any communications towers shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most-recent editions of the Pennsylvania Uniform Construction Code, American National Standards Institute (ANSI) Code, and Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. At all times, communications towers shall be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- (2) **Notice.** Upon submission of an application for a communications tower and the scheduling of the mandatory public hearing in front of the Township Zoning Hearing Board, the applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The applicant shall provide proof of the notification to the Township.
- (3) **Special Exception Authorization Required.** Communications towers are permitted by special exception in certain zoning districts, at a height necessary to satisfy their function in the applicant's wireless communications system. No applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The applicant shall demonstrate that the proposed communications tower is the minimum height necessary for its service area.

- (a) Prior to the Township Zoning Hearing Board's consideration of a special exception application authorizing the construction and installation of a communications tower, it shall be incumbent upon the applicant for such special exception approval to prove to the reasonable satisfaction of Township Zoning Hearing Board that the applicant cannot adequately extend or infill its communications system by the use of equipment such as redoes, repeaters, communications antennas, and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The applicant shall further demonstrate that the proposed communications tower must be located where it is proposed in order to serve the applicant's service area and that no other viable alternative location exists.
 - (b) The special exception application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the applicant, the power in watts at which the applicant transmits, and any relevant related tests conducted by the applicant in determining the need for the proposed site and installation.
 - (c) The special exception application shall be accompanied by documentation demonstrating that the proposed communications tower complies with all state and federal laws and regulations concerning aviation safety.
 - (d) Where the communications tower is located on a property with another principal use, the applicant shall present documentation to the Township Zoning Hearing Board that the owner of the property has granted an easement for the proposed communications tower and that vehicular access will be provided to the facility.
 - (e) The special exception application shall be accompanied by documentation demonstrating that the proposed communications tower complies with all applicable provisions in this section.
- (4) Engineer Inspection. Prior to the Zoning Hearing Board's issuance of a permit authorizing construction and erection of a communications tower, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of the proposed communications

tower's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunications Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the special exception proceedings before the Township Zoning Hearing Board or, at a minimum, be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.

- (5) Visual Appearance. Communications towers shall employ stealth technology. All communications towers and related equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Township Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district and/or surrounding area involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and construction principles, practices and techniques. Any utilities extending to the communications tower shall be placed underground.
- (6) Co-location and Siting. An application for a new communications tower shall demonstrate that the proposed communications tower cannot be accommodated on an existing or approved structure or building, or on land owned by the Township of Leet. The Township Zoning Hearing Board may deny an application to construct a new communications tower if the applicant has not made a good-faith effort to mount the communications antenna on an existing structure. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one-fourth-mile radius of the site proposed, sought permission to install a communications 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 communications 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 communications tower.
- (7) Permit Required for Modifications. To the extent permissible under applicable state and federal law, any applicant proposing the modification of an existing communications tower which substantially changes the wireless support structure shall first obtain a building permit from the Township. Nonroutine modifications shall be prohibited without such permit.
- (8) Gap in Coverage or Capacity. An applicant for a communications tower must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of communications tower being proposed is the least-intrusive means by which to fill that gap. The existence or nonexistence of a gap in wireless coverage or capacity shall be a factor in the Township Zoning Hearing Board's decision on an application for approval of communications tower.
- (9) Additional Communications Antennas. As a condition of approval for all communications towers, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate communications antennas on communications towers where technologically and economically feasible. To the extent permissible under federal and state law, the owner of a communications tower shall not install any additional communications antennas without obtaining the prior written approval of the Township.
- (10) Wind. Any communications tower structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/EIA/TIA-222), as amended.
- (11) Height. Any communications tower shall be designed at the minimum functional height. The maximum height of any new communications tower outside the public rights-of-way shall be 175 feet.

Communications towers in the ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two-block radius of the proposed facility.

- (12) Related Equipment. Either one single-story wireless communications equipment building not exceeding 250 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 space on the communications tower.
- (13) Public Safety Communications and Other Communications Services. No communications tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (14) Maintenance. The following maintenance requirements shall apply:
 - (a) Any communications tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the communications tower in order to promote the safety and security of the Township's residents and shall utilize the best available technology for preventing failures and accidents.
- (15) Radio-Frequency Emissions. A communications tower shall not, by itself or in conjunction with other communications towers or communications antennas, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (16) Historic Buildings or Districts. No communications tower may be located upon any property or on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places (either inside or outside the public rights-of-way) or that is deemed by the Township to be of local historic significance.
- (17) Signs. All communications towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the communications tower shall be those required by the FCC or any other federal or state agency.

- (18) Lighting. No communications tower shall be artificially lighted, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Automatic lighting is prohibited, and all lighting must be controlled manually by an on-site switch. The applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Manager.
- (19) Noise. Communications towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (20) Aviation Safety. Communications towers shall comply with all federal and state laws and regulations concerning aviation safety.
- (21) Retention of Experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the communications tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The applicant and/or owner of the communications tower shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (22) Timing of Approval. Within 30 calendar days of the date that an application for a communications tower is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. All applications for communications towers shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such communications towers, and the Township shall advise the applicant, in writing, of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the one-hundred-fifty-day review period.
- (23) Nonconforming Uses. Nonconforming communications towers which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this section.
- (24) Removal. In the event that use of a communications tower is planned to be discontinued, the owner 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 communications towers, or portions of communications towers, shall be removed as follows:

- (a) All unused or abandoned communications towers and related equipment shall be removed within two months of the cessation of operations at the site, unless a time extension is approved by the Township.
 - (b) If the communications tower and/or related equipment is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the communications tower and related equipment may be removed by the Township and the cost of removal assessed against the owner of the communications tower. As security, the Township reserves the right to the salvage value of any removed communications tower and/or related equipment, if such communications tower and/or related equipment are not removed by the owner within the time frames enumerated in this section.
 - (c) Any unused portions of communications towers, including antennas, shall be removed within two months of the time of cessation of operations. To the extent permitted by federal and state law, the Township must approve all replacements of portions of a communications tower previously removed.
- (25) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a communications tower, as well as related inspection, monitoring, and related costs.
- (26) FCC License. Each person that owns or operates a communications tower over 40 feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (27) Insurance. Each person that owns or operates a communications tower greater than 40 feet in height shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and 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 communications tower. Each person that owns or operates a communications tower 40 feet or less in height shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and evidencing general liability coverage in the

minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each communications tower.

- (28) Indemnification. Each person that owns or operates a communications tower shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times, against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communications tower. Each person that owns or operates a communications tower shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of the communications tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (29) Engineer Signature. All plans and drawings for a communications tower shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (30) Financial Security. Prior to receipt of a zoning permit for the construction or placement of a communications tower, the applicant shall provide to the Township financial security sufficient to guarantee the construction of the communications tower. Said financial security shall remain in place until the communications tower is fully constructed. Should the communications tower be abandoned by the owner and/or operator, and not removed within two months of such abandonment, the Township shall have the authority to remove the communications tower and sell all of its pieces, as well as related equipment used in the operation of the communications tower, in order to recover the cost of said removal.

2. Communications Towers Outside the Public Rights-of-Way.

A. In addition to the regulations enumerated in Subsection 1A, the following regulations shall apply to communications towers located outside the public rights-of-way:

- (1) Development Regulations.

- (a) Communications towers shall not be located in, or within 75 feet of, an area in which all utilities are located underground.
- (b) Communications towers are permitted outside the public rights-of-way, subject to the prohibitions contained herein, in the B Residence District.
- (c) Sole Use on a Lot. A communications tower shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in this chapter.
- (d) Combined with Another Use. A communications tower may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - 1) The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the communications tower.
 - 2) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the communications tower and guy wires, the equipment building, security fence, and buffer planting if the proposed communications towers is greater than 40 feet in height.
 - 3) Minimum Setbacks. The minimum distance between the base of a communications tower and any adjoining property line or street right-of-way line shall be equal to 100% of the height of the communications tower. The underlying lot must be large enough to accommodate related equipment, stormwater runoff mechanisms, and all other features typically found within the immediate area of a communications tower.

(2) Design Regulations.

- (a) The communications tower shall employ the most-current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the stealth technology chosen by the applicant shall be subject to the approval of the Township Zoning Hearing Board.
- (b) To the extent permissible by law, any height extensions to an existing communications tower shall require prior approval of

the Township.

- (c) Any proposed communications tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's communications antennas and comparable communications antennas, for the maximum amount of future users based on the size of the proposed communications tower.
 - (d) Any communications tower over 40 feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (3) Surrounding Environs.
- (a) The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the communications tower shall be preserved to the maximum extent possible.
 - (b) The applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222, as amended, to document and verify the design specifications of the foundation of the communications tower, and anchors for guy wires, if used.
- (4) Fence/Screen.
- (a) A security fence with a maximum height of eight feet shall completely surround any communications tower greater than 40 feet in height, as well as guy wires, or any building housing related equipment.
 - (b) The applicant shall comply with the requirements for buffer yards and screening as required by this chapter.
- (5) Related Equipment.
- (a) Ground-mounted related equipment associated to, or connected with, a communications tower shall be placed underground or screened from public view using stealth technologies, as described herein.
 - (b) All related equipment shall be architecturally designed to blend into the environment in which it is situated and shall meet the minimum setback requirements of the underlying zoning district.
- (6) Access Road. An access road, turnaround space and parking shall be

provided to ensure adequate emergency and service access to communications towers. The access road shall be a dust-free, all-weather surface for its entire length. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the communications tower owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

- (7) Parking. For each communications tower greater than 40 feet in height, there shall be two off-street parking spaces.
- (8) Inspection. The Township reserves the right to inspect any communications tower to ensure compliance with this chapter and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a communications tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

3. Communications Towers Inside the Public Rights-of-Way.

A. In addition to the regulations enumerated in Subsection 1A, the following regulations shall apply to communications towers located in the public rights-of-way:

- (1) Location and Development Standards.
 - (a) Communications towers in the ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two-block radius of the proposed facility. Communications towers are prohibited in areas in which all utilities are located underground.
 - (b) Communications towers shall not be located in the front facade area of any structure.
 - (c) Communications towers shall be permitted along certain roads by special exception throughout the Township, regardless of the underlying zoning district. A listing of such roads is kept on file at the Township Zoning Office and is adopted via resolution of the Township Board.
- (2) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications towers in the ROW based on public safety, traffic management, physical burden on the ROW, and related

considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

- (3) Equipment Location. Communications towers and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW, as determined by the Township. In addition:
 - (a) Ground-mounted related equipment shall be located between the sidewalk and the curb. For reasons of safety and aesthetics, such equipment shall neither protrude onto the curb nor obstruct the sidewalk.
 - (b) Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features, to the satisfaction of the Township Zoning Hearing Board.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area, to the satisfaction of the Township Zoning Hearing Board.
 - (d) Any graffiti on the tower or on any related equipment shall be removed at the sole expense of the owner.
 - (e) Any underground vaults related to communications towers shall be reviewed and approved by the Township Zoning Hearing Board.
- (4) Design Regulations.
 - (a) The communications tower shall employ the most-current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the applicant shall be subject to the approval of the Township Zoning Hearing Board.
 - (b) Communications towers in the public ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two-block radius of the proposed facility.
 - (c) To the extent permissible under state and federal law, any height extensions to an existing communications tower shall

require prior approval of the Township and shall not violate the provisions described herein.

- (d) Any proposed communications towers shall be designed structurally, electrically, and in all respects to accommodate both the applicant's communications antennas and comparable communications antennas for the maximum amount of future users based on the size of the proposed communications tower.
- (5) Relocation or Removal of Facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a communications tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications tower when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (a) The construction, repair, maintenance or installation of any Township or other public improvement 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; or
 - (d) An emergency as determined by the Township.
- (6) Reimbursement for ROW Use. In addition to permit fees as described in this section, every communications tower in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each communications tower shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

SECTION II.

That the within Ordinance Amendment shall take full force upon passage and approval of same.

ORDAINED and ENACTED this 11th day of March 2019, by the Leet Township Board of Commissioners.

ATTEST:

LEET TOWNSHIP

/S/ BETSY RENGERS
BETSY RENGERS, MANAGER

/S/GARY L. BRADEL
GARY L. BRADEL, CHAIRMAN