

**TOWNSHIP OF SHALER
ORDINANCE NO. 1971**

WIRELESS COMMUNICATION FACILITIES

**AN ORDINANCE OF THE TOWNSHIP OF SHALER,
ALLEGHENY COUNTY, COMMONWEALTH OF
PENNSYLVANIA, AMENDING CHAPTER 225, ZONING,
TO ESTABLISH GENERAL AND SPECIFIC
REGULATIONS FOR WIRELESS COMMUNICATIONS
FACILITIES, BOTH INSIDE AND OUTSIDE THE PUBLIC
RIGHTS-OF-WAY.**

WHEREAS, the Pennsylvania Municipalities Planning Code (“MPC”), 53 P.S. §§10101 *et seq.*, as amended, authorizes the Township of Shaler (“Shaler”) to regulate zoning and land use within the Township; and

WHEREAS, by Act 191 of 2012, the Wireless Broadband Collocation Act, 53 P.S. §§ 11702.1 *et seq.*, (“WBCA”) the General Legislature established certain procedures and restrictions on local regulation of applications for the modification or collocation of wireless communications facilities and wireless support structures; and

WHEREAS, by Act 50 of 2021, the Small Wireless Facilities Deployment Act, 53 P.S. §§ 11704.1 *et seq.*, (“Act 50”) the General Legislature established certain procedures and restrictions on local regulation of applications for the placement of wireless support structures or collocation of wireless communications facilities located within municipal rights-of-way; and

WHEREAS, Chapter 225 of the Shaler Township Code of Ordinances, Zoning, (“Zoning Ordinance”) establishes certain regulations for the placement, design, and use of wireless communications facilities within the Township; and

WHEREAS, Board of Commissioners of Shaler Township has reviewed the existing regulations contained in the Zoning Ordinance and desires to make certain revisions to the same to ensure compliance with Act 50, the WBCA and any other applicable Federal or State law or regulation; and

NOW THEREFORE, the Board of Commissioners of the Township of Shaler, hereby ordains and enacts as follows, incorporating the above recitals by reference:

SECTION 1.

Chapter 225, Article IX, Article A, “Wireless Communications Tower and Facilities” of the Shaler Township Zoning Ordinance is hereby repealed in its entirety and replaced with a new Article A, entitled and provided for as follows:

A. Wireless Communications Facilities

§ 225-70 Definitions.

- A. *Antenna* — An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.
- B. *Collocated Wireless Communications Facility (Collocated WCF)* — Wireless communications facilities collocated on existing structures, that do not require the installation of a new or replacement wireless support structure.
- C. *Collocation* — The mounting of one or more WCFs, including antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.
- D. *Eligible Facilities Request* — Any request for modification of an existing WCF that does not substantially change the physical dimensions of such WCF, involving:
 - (i) Collocation of new transmission equipment;
 - (ii) Removal of transmission equipment; or
 - (iii) Replacement of transmission equipment.
- E. *Emergency* — A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.
- F. *Equipment Compound*—An area surrounding or adjacent to a wireless support structure within which base stations, power supplies, or related equipment are located.
- G. *FCC*—Federal Communications Commission.
- H. *Modification* or *Modify*—The improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.
- I. *Related Equipment* — Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

- J. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* -- the replacement of existing wireless communications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.
- K. *Small Wireless Communications Facility (Small WCF)* — A wireless communications facility that meets the following qualifications:
- (a) Each Antenna associated with the wireless communications facility is no more than three cubic feet in volume.
 - (b) The volume of all other equipment associated with the wireless communications facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet.
- L. *Stealth Technology* — Camouflaging methods applied to wireless communications facilities and related equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
- M. *Substantially Change or Substantial Change* – A modification substantially changes the physical dimensions of a support structure if it meets the criteria established by 47 CFR §1.6100.
- N. *Technically Feasible* – By virtue of engineering or spectrum usage, the proposed placement for a wireless communications facility or its design or site location can be implemented without a material reduction in the functionality of the wireless communications facility.
- O. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—Any new or replacement wireless support structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying antenna and related equipment.
- P. *Utility Pole* — A pole or similar structure that is or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for collocation. The term includes the vertical support structure for traffic lights but does not include wireless support structures or horizontal structures to which signal lights or other traffic control devices are attached.

- Q. *Wireless Communications Facility (WCF)* — An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- R. *Wireless Communications Facility Applicant (WCF Applicant)*—Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Township-owned land or property.
- S. *Wireless Support Structure*—A pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

§ 225-71 Purpose.

- A. The purpose of these provisions is to establish standards for the permitting, siting, design, construction, maintenance, and operation of wireless communications facilities in Shaler Township. By enacting this ordinance, the Township intends to:
 - (1) Provide for the managed development of wireless communications facilities in a manner that allows for the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations.
 - (2) Establish procedures for the permitting, design, siting, construction, maintenance, operation and removal of wireless communications facilities in the Township, including wireless communications facilities both inside and outside the public rights-of-way.
 - (3) Address new wireless technologies, including but not limited to, small cells, distributed antenna systems, data collection units, and other wireless communications facilities.
 - (4) Encourage applicants to collocate their wireless communications facilities on existing wireless support structures and other tall structures.
 - (5) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that competing providers of wireless communications services collocate their commercial communications antennas and related facilities on existing towers.
 - (6) Promote the health, safety and welfare of the Township's residents.
 - (7) Address recent changes in federal and state law governing local regulations of wireless communications facilities.

§ 225-72 General requirements for all Wireless Communications Facilities.

A. The following regulations shall apply to all Wireless Communications Facilities located within the Township:

- (1) Township Map. The Township Manager shall establish and maintain an official Township map showing the location of all existing conforming and nonconforming Tower-Based WCFs in the Township, including Township property and facilities, as well as the search rings of all Township Antenna arrays, which map shall be known as the "Township Wireless Communications Facility Map."
- (2) Noncommercial usage exemption. Township citizens utilizing satellite dishes and antennas for the purpose of maintaining television, phone and/or Internet connections at their respective residences shall be exempt from the requirements of this Article A.
- (3) Standard of care.
 - (a) All WCFs shall maintain strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or damage any property in the Township.
 - (b) If such standards or regulations are changed, the owner of the WCF shall bring such WCF into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such WCFs into compliance shall constitute grounds for the removal of the WCF at the owner's expense.
- (4) Wind. All WCFs shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
- (5) Aviation safety. WCFs shall comply with all applicable federal and state laws and regulations concerning aviation safety. No WCF shall encroach into or through any established public or private airport approach path as established by the FAA.
- (6) Public safety communications. No WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

- (7) Signs. All WCFs shall include a sign in a location readily visible from ground level identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC or any other federal or state agency.
- (8) Radio frequency emissions. No WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (9) Permit fees. The Township may assess any and all permit fees as permitted by law, including, but not limited to those authorized pursuant to the Wireless Broadband Collocation Act, 53 P.S. §§11702.1 *et seq.*, and the Pennsylvania Small Wireless Facilities Deployment Act, 53 P.S. §§11704.1 *et seq.*, which shall be set from time to time by resolution of the Shaler Township Board of Commissioners.
- (10) Indemnification. Each person that owns or operates a WCF 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 WCF. Each person that owns or operates a WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (11) Lighting. No WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Manager.
- (12) Noise. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township ordinances, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (13) Engineer signature. All plans and drawings for a WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania

certifying the structural integrity of the proposed WCF and compliance with all local, state and federal laws and regulations applicable to the proposed WCF.

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

- (a) The WCF 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.

§ 225-73 Specific requirements for Collocated Wireless Communications Facilities.

A. The following regulations shall apply to Collocated WCFs that do not meet the definition of a Small WCF:

- (1) Location requirements. Collocated WCFs shall be permitted outside the public rights-of-way in all zoning districts as a permitted use.
- (2) Application requirements. Applications for Collocated WCFs shall include the following:
 - (i) The name and contact information, including phone number, for both the WCF Applicant and the owner of the proposed Collocated WCF.
 - (ii) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Collocated WCF, and a certification that the WCF Applicant has included all information required by the Township ordinances, signed by a representative of the WCF Applicant.
 - (iii) The manufacturer and model, proposed location, and physical dimensions of each piece of equipment proposed as part of the Collocated WCF.
 - (iv) An aerial photograph of the proposed site showing the area within 500 feet of the Collocated WCF. The aerial photograph shall identify all structures within such radius.
 - (v) Photo simulations depicting the Collocated WCF from at least two (2) locations near the proposed site. The photo simulations should clearly reflect the proposed design and location of all equipment associated with the Collocated WCF.
 - (vi) Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other

structure upon which the WCF will be Collocated, considering wind and the loads associated with the location of the proposed Collocated WCF.

- (vii) A report by a qualified engineering expert which shows that the Collocated WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
 - (viii) Evidence of agreements and/or easements necessary to provide access to the building or other wireless support structure on which the Collocated WCF is to be mounted so that installation and maintenance of the Collocated WCF building can be accomplished.
 - (ix) A certificate of insurance as required by Section 225-73A(8).
 - (x) All application fees required by the Township as detailed in the Township fee schedule.
- (3) Development regulations.
- (a) Collocated WCFs shall not be located on any single-family dwelling or two-family dwelling.
 - (b) A Collocated WCF shall be permitted to exceed the height limitations of the applicable zoning district by no more than twenty (20) feet.
 - (c) Collocated WCFs shall employ Stealth Technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township.
- (4) Repair, upgrade. The removal and replacement of Collocated WCFs and/or Related Equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not Substantially Change the dimensions of the underlying support structure. Any modification that constitutes a Substantial Change to a WCF shall be treated as a new WCF for which the WCF Applicant must submit a complete application as required by this Article A.
- (5) Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this Article 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 WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(6) Timing of approval.

- (a) Within 30 calendar days of the date that an application for a Collocated WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application.
- (b) Within 90 calendar days of receipt of an application, and subject to applicable tolling procedures as established by federal law, the Township shall make its final decision on whether to approve the application and shall advise the WCF Applicant in writing of such decision.
- (c) If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the Township's review period.

(7) Insurance. Each person that owns or operates a Collocated WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Collocated WCF.

(8) Removal. In the event that use of a Collocated WCF is discontinued, the owner shall provide written notice within 90 days to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- (a) All abandoned or unused WCFs 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 WCF 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 WCF and/or Related equipment may be removed by the Township, and the cost of removal assessed against the owner of the WCF.

§ 225-74 Specific requirements for Tower-Based Wireless Communications Facilities.

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

(1) Location requirements.

- (a) Tower-Based WCFs may be located on public property in any zoning district if authorized by the Township.

(b) Tower-Based WCFs may be located outside the rights-of-way as a conditional use in the following zoning districts, subject to the requirements of this Section 27-420:

(i) C Cemetery District

(ii) GC General Commercial

(iii) I Industrial

(2) Application requirements.

(a) The WCF Applicant shall submit a copy of its FCC license with its conditional use application. Any grant of conditional use hereunder shall cease automatically if the WCF Applicant's FCC license expires, lapses or is revoked.

(b) The WCF Applicant shall submit certified documentation with its conditional use application for a Tower-Based WCF, verifying that the Tower-Based WCF or equipment cannot be Collocated, accommodated or installed on an existing structure, inside or outside the Township. The documentation shall certify that there is no existing structure available which would reasonably accommodate the proposed Tower-Based WCF or communications needs of the WCF Applicant. Structure availability shall be measured in terms of physical availability, legal availability and economic availability. The WCF Applicant shall demonstrate to the reasonable satisfaction of the Board what measures were taken to identify existing structures as well as what measures were taken to secure the right to use such facilities or structures. The foregoing shall apply to property within and without the Township which would reasonably accommodate the service area requirements of the WCF Applicant.

(c) The WCF Applicant shall submit with its conditional use application a Tower-Based WCF site plan or survey of the property certified by an engineer or architect.

(d) The WCF Applicant shall submit with its conditional use application, a report by a certified engineer documenting the following:

(i) A proposed search ring shown on the official Township Wireless Communications Facility Map.

(ii) Tower-Based WCF height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design. A cross section of the Wireless Support Structure shall be included.

(iii) Total anticipated capacity of the site, including number and types of Antennas which can be accommodated.

- (iv) Evidence of structural integrity of the Wireless Support Structure meeting the TIA/EIA-222-F standard.
- (v) Failure characteristics of the Wireless Support Structure and demonstration that the site and setbacks are of adequate size to accommodate debris.
- (vi) All load hazards and mitigation measures which have been employed, including but not limited to increased setbacks and/or deicing equipment.
- (vii) Specific design and construction plans indicating the means by which shared-use requirements shall be met.
- (viii) A geotechnical report by a certified soils engineer certifying the subsurface soil conditions of the Tower-Based WCF site.
- (ix) A verified report and/or statement by a radio frequency (RF) engineer certifying that the proposed Tower-Based WCF and Antenna transmissions have been reviewed and that the aggregate exposure from all transmissions Collocated on a single tower will not exceed the maximum allowed under any federal or state law or regulation. The report should identify the total of all current RF exposures, the maximum permitted RF exposure in the aggregate, the exact extent to which the WCF Applicant's transmission will add to the Collocation if permitted, and the amount of remaining exposure before the maximum is exceeded.
- (e) An environmental impact statement shall be submitted with any conditional use application for a Tower-Based WCF, describing the effects the proposed Tower-Based WCF will have on the environment and surrounding area, including, but not limited to, the effects on human health, views, air traffic, migrating birds and other environmental impacts.
- (f) The WCF Applicant shall submit to the Township with its conditional use application an independent site analysis and engineering report, including studies, plans and calculations, prepared by a registered engineer, documenting proper Wireless Support Structure design, proper Tower-Based WCF site and corroborating that the Tower-Based WCF or equipment cannot be Collocated, accommodated or installed on an existing or already approved Wireless Support Structure or other existing structure such as an electric transmission tower, stadium light pole or water tank, as well as documenting the proper location of foundations and anchoring devices.
- (g) The WCF Applicant shall submit with its conditional use application written documentation that there exists a sufficient easement or right-of-way to allow vehicular access to the Tower-Based WCF site. The access shall be a minimum width of 20 feet

and shall be adequate to permit emergency vehicles access to the WCF and shall be constructed of dust-free all-weather surface. The right-of-way or easement shall be maintained by the landowner, the owner of the right-of-way or easement or the lessee.

- (h) The conditional use application shall demonstrate to the reasonable satisfaction of the Board that such use is reasonably necessary at the proposed Tower-Based WCF site for the convenience of the people at large or for the general welfare. The documentation submitted by the WCF Applicant shall include a map of the area to be served by the Tower-Based WCF and the relationship of the proposed Tower-Based WCF site to other WCFs.
 - (i) All WCF Applicants for approval of a Tower-Based WCF shall submit, in addition to the foregoing requirements of this section, the following:
 - (i) A statement from the FAA that the application has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or a statement that no compliance with Part 77 is required.
 - (ii) A statement from the FCC that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.
 - (iii) WCF Applicant's letter of intent to lease excess space on the Wireless Support Structure in conformance with the provisions for shared-use contained in this section.
 - (j) Such conditional use application fees as set by resolution of the Board.
- (3) Notice. Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. Such notice shall be provided a minimum of ten (10) days in advance of such public hearing. The WCF Applicant shall provide proof of the notification to the Township.
- (4) Collocation and sharing. Tower-Based WCFs shall be permitted as a conditional use in the Township, provided the Board finds that no existing or planned Tower-Based WCF can reasonably accommodate the WCF Applicant's proposed antenna or other equipment as described herein. As a prerequisite to such finding, the WCF Applicant shall comply with the following Collocation and sharing requirements and procedures:
- (a) Prior to submitting a conditional use application, the WCF Applicant shall contact the owners of all existing or planned Tower-Based WCFs, as well as other suitable wireless support structures including any building-mounted sites in the Township of a height approximately equal to or greater than the height of the Tower-Based WCF proposed

by the WCF Applicant, within a one-half (1/2) mile radius of the proposed site. A list shall be provided by the WCF Applicant to the Township of all such owners contacted, the date of such contact, as well as the form and content of such contact.

- (b) Such contacts shall be made prior to the filing of the conditional use approval so as to allow for inclusion of the responses into the application when filed. Failure of a listed owner to respond shall not be relevant to the filing of an application if a timely, good faith effort was made to contact such listed owner. However, where an existing or planned Tower-Based WCF is known to have capacity for additional Antennas of the type proposed, based upon a prior decision regarding such Tower-Based WCF, a response concerning Collocation is required as a condition for approval of the conditional use. The Township shall maintain and provide, on request, records of responses from each owner.
- (c) The WCF Applicant shall request the following information for Collocation from each owner contacted:
 - (i) Identification of the site by location, existing uses and Tower-Based WCF height.
 - (ii) Whether the existing or planned Tower-Based WCF can structurally accommodate the Antenna proposed by the WCF Applicant without requiring that structural changes be made to the existing or planned Tower-Based WCF.
 - (iii) Whether the existing or planned Tower-Based WCF can structurally accommodate the proposed Antenna if structural changes are made, not including totally rebuilding the existing or planned Tower-Based WCF. If so, the owner shall specify in general terms what structural changes would be required.
 - (iv) If structurally able, would Collocation of the proposed Antenna(s) on such existing or planned Tower-Based WCF be precluded for reasons related to radiofrequency interference. If so, the WCF Applicant shall describe in general terms what changes in either the existing or proposed WCF would be required to allow for Collocation on the existing or planned Tower-Based WCF, if at all.
 - (v) If shared-use is possible, based on Subsection (c)(iii) and (iv) above, the fee an owner of any existing or planned Tower-Based WCF would charge for such shared-use.
- (d) Shared-use or Collocation shall not be precluded simply because a reasonable fee for shared-use is charged or because of reasonable cost necessary to adapt the existing and proposed uses to a shared Tower-Based WCF. Expert testimony may be considered to determine whether the fee and costs are reasonable. Costs exceeding new Tower-Based WCF construction and the cost of ground rental or acquisition are presumed unreasonable.

- (e) Prior to granting a conditional use application for a Tower-Based WCF, the WCF Applicant shall agree:
 - (i) To lease any additional space on the Tower-Based WCF to other companies at the fair market rate.
 - (ii) To construct the Tower-Based WCF to accommodate a certain number of Antennas or as many as Technically Feasible.

(5) Development regulations.

- (a) The Tower-Based WCF may exceed the height limit of the zoning district in which it is located, provided it is demonstrated to the Board that such height is necessary and essential for the proper functioning of the concerned Tower-Based WCF.
- (b) Minimum setbacks. In addition to meeting the setback requirements of the zoning district, no Tower-Based WCF shall be located closer than the following distances from any property line as measured from the base of the Tower-Based WCF:
 - (i) A distance of 150% of the Tower-Based WCF height from any property line; or
 - (ii) The maximum collapsible fall radius of the Tower-Based WCF as specified by a registered engineer. Any guy anchor shall be located a minimum of 25 feet from any property line and additionally must meet the minimum yard and building setback requirements of the zoning district in which it is located.

(6) Design regulations.

- (a) The Tower-Based WCF including all Communications Equipment Buildings and other Related Equipment, shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. All Communications Equipment Buildings and other 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.
- (b) In addition to the other design requirements enumerated in this section, the application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township.
- (c) The width of the base of the Wireless Support Structure shall be no more than 10 feet at ground level. At a height of 30 feet above ground level the maximum width shall be six feet. At the highest point of the Wireless Support Structure, the maximum width shall be 18 inches. No signs or other structures, devices or other items shall be placed on the Tower-Based WCF except as specifically approved.

- (d) To the extent permissible by law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Township.
 - (e) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennas and comparable Antennas for future users.
 - (f) The Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer, if such anti-climbing device is deemed necessary by the Township Board.
- (7) Surrounding environs. The WCF Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- (8) Fence/screen. A fence or wall not less than eight (8) feet in height from finished grade shall be constructed around each Tower-Based WCF and around each guy anchor and peripheral support. All structures related to the Tower-Based WCF shall be equipped with a twenty-four-hour security system. The fence or wall shall comply with the following standards:
- (a) Access to the Tower-Based WCF shall be restricted and shall be through a locked gate in the required fence or wall.
 - (b) The required fencing shall consist of a masonry wall or solid fence with trees planted along the exterior of the wall or fence or an open fence with an evergreen screen that consists of a continuous hedge with a minimum height of five feet with trees planted along the exterior of the screen. Tree plantings shall consist of three-inch-minimum-caliper deciduous or evergreen trees planted 20 feet on center maximum. Existing vegetation shall be preserved to the maximum extent possible.
 - (c) When high voltage is necessary for the operation of the Tower-Based WCF, and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE - DANGER."
- (9) Permit required for modifications. To the extent permissible under applicable state and federal law, any WCF Applicant proposing the modification of an existing Tower-Based WCF shall first obtain the applicable permit from the Township Zoning Office, in accordance with the Township's permitting practices.
- (10) Collocation and sharing. All Tower-Based WCFs shall be designed to structurally accommodate the maximum number of Antennas Technically Feasible, but in no case less than the following:

- (a) At least one two-way radio Antenna for every 10 feet of the Wireless Support Structure, or at least one two-way radio Antenna for every 20 feet of the Wireless Support Structure and at least one microwave facility.
 - (b) Such other combination as found by the Board to provide the maximum possible number of foreseeable users.
 - (c) Such requirements may be reduced if either:
 - (i) The FCC provides a written statement that no more licenses for those broadcast frequencies that could use the Wireless Support Structure will be available in the foreseeable future; or
 - (ii) The size of the Wireless Support Structure required significantly exceeds the size of the existing Wireless Support Structures in the area and would therefore create an unusually onerous visual impact that would dominate and alter the visual character of the area when compared to the impact of other existing Wireless Support Structures. This provision is only to be applied in unusual circumstances not resulting from the WCF Applicant's action or site selection, unless no other site is possible.
- (11) Height. The WCF Applicant shall demonstrate to the reasonable satisfaction of the Board that the height of the Tower-Based WCF is the lesser of:
- (a) One hundred twenty-five feet above ground level; or
 - (b) The minimum necessary to serve the service area requirements of the WCF Applicant. If the WCF Applicant is applying for height in addition to its own requirements, the WCF Applicant shall submit agreements including reasonable details regarding the use of the additional height and the facilities to be placed on the Tower-Based WCF. However, the maximum height of the Tower-Based WCF shall not at any time exceed 200 feet. No equipment mounted or attached to the Tower-Based WCF shall exceed this 200-foot maximum height.
- (12) Maintenance. The following maintenance requirements shall apply:
- (a) All maintenance shall be performed to ensure the upkeep of the Tower-Based WCF in order to promote the safety and security of the Township's residents.
 - (b) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (13) 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 Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this chapter. The WCF Applicant and/or owner of

the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.

(14) Timing of approval.

- (a) Within 30 calendar days of the date that an application for a Tower-Based WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application.
- (b) All applications for Tower-Based WCFs shall be acted upon within 150 days of the receipt of an application for the approval of such Tower-Based WCF, and in accordance with applicable tolling procedures as established by federal law, and the Township Board shall advise the WCF Applicant in writing of its decision.
- (c) If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the 150-day review period.

(15) Nonconforming uses. Nonconforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this chapter.

(16) Removal. In the event that use of a Tower-Based WCF 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 WCFs or portions of WCFs shall be removed as follows:

- (a) All unused or abandoned Tower-Based WCFs and Related Equipment shall be removed and the WCF site shall be restored to its original state within six months of the cessation of operations at the site unless a time extension is approved by the Township.
- (b) If the WCF is not removed and the WCF site is not restored to its original state within six months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and Related Equipment may be removed and the WCF site may be restored to its original state by the Township and the cost of removal assessed against the owner of the WCF.
- (c) Any unused portions of Tower-Based WCFs, including Antennas, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a Tower-Based WCF and Related Equipment previously removed.

(17) Insurance. Each person that owns or operates a Tower-Based WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF.

(18) Financial security. Prior to the erection or construction of a Tower-Based WCF, the owner/operator of the Tower-Based WCF shall post a bond or other security with the Township in an amount sufficient to guarantee that the Tower-Based WCF can be removed completely within six months of cessation of use at the sole cost and expense of the owner/operator.

(19) Annual Inspection.

(a) An annual inspection program performed by a professional engineer and paid for by the owner of the Tower-Based WCF shall be required for all Tower-Based WCF. An annual inspection report shall be submitted to the Township by the owner of the Tower-Based WCF on June 1 of each calendar year, documenting that an inspection has been performed on the Tower-Based WCF within the previous 30 days and that the structure and surrounding site are in compliance with the requirements of this article. Additionally, the annual inspection report shall certify that the Tower-Based WCF is securely anchored in a fixed location on the ground and further certify that the structure can withstand wind, storm, ice and other natural or artificial forces required by this article. It shall further certify that the Tower-Based WCF is structurally capable of handling antennas, dishes and other equipment mounted or attached to the Tower-Based WCF.

(b) The annual inspection shall include a photograph of the Tower-Based WCF site showing or depicting all appendant structures, including all antennas and antenna arrays.

§ 225-75 Specific requirements for Small Wireless Communications Facilities.

A. The following regulations shall apply to all Small Wireless Communications Facilities:

(1) Location standards.

(a) Small WCFs located in the rights-of-way and Collocated Small WCFs outside the rights-of-way shall be a permitted use in all Township zoning districts, subject to the requirements of this Article A and generally applicable permitting as required by the Township ordinances.

(b) Small WCFs requiring the installation of a new or replacement Wireless Support Structure and located outside the rights-of-way shall be a permitted use in the following zoning districts, subject to the requirements of this Article A and generally applicable permitting as required by the Township Code:

- (i) C Cemetery District
- (ii) GC General Commercial
- (iii) I Industrial

(2) Application requirements.

- (a) Applications for Small WCFs shall be submitted to the Township Zoning Officer.
- (b) Applications for Small WCFs shall include the following:
 - (i) The name and contact information, including phone number, for both the WCF applicant and the owner of the proposed Small WCF.
 - (ii) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Small WCF, and a certification that the WCF Applicant has included all information required by the Township Code, signed by a representative of the WCF Applicant.
 - (iii) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Small WCF.
 - [1] If the Small WCF is proposed for location on an existing or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - [2] If installation of a new or replacement Wireless Support Structure is being proposed, the depiction shall include the color, dimensions, material and type of Wireless Support Structure proposed.
 - (iv) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small WCF.
 - (v) An aerial photograph of the proposed site showing the area within 500 feet of the Small WCF. The aerial photograph shall identify all structures within such radius.
 - (vi) Photo simulations depicting the Small WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Small WCF.
 - (vii) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Small WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.

- (viii) A report by a qualified engineering expert which shows that the Small WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
- (ix) A certificate of insurance as required by Section 225-75A(12).
- (x) All application fees required by the Township as detailed in the Township fee schedule.

(3) Timing of Approval.

- (a) Within ten (10) business days of the date that an application for a Small WCF is filed with the Township Zoning Officer, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application. The WCF Applicant may then resubmit its application, at which point the applicable timeframe for approval shall restart. Any subsequent notice of incompleteness shall be issued within ten (10) business days of receipt of a resubmitted application and shall toll the applicable timeframe for approval until such time as the application is resubmitted.
 - (b) Within sixty (60) days of receipt of an application for Collocation of a Small WCF on a preexisting structure, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
 - (c) Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
 - (d) If the Township denies an application for a Small WCF, the Township shall provide the WCF Applicant with written documentation of the basis for denial, including the specific provisions of the Township Code on which the denial was based, within five (5) business days of the denial.
 - (e) The WCF Applicant may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.
- (4) Consolidated applications. A WCF Applicant may submit a consolidated application for the collocation of multiple Small WCF. A consolidated application may not exceed 20 individual small wireless communication facilities. A single WCF Applicant may not submit more than one consolidated or 20 single applications for collocated Small WCFs in a 30-day period. If the Township receives more than one consolidated application or 20

single applications within a 45-day period, the applicable timeframe under Section 225-75A(3) shall be extended by 15 days.

- (5) Time, Place and Manner. Once approved, the Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- (6) Attachment to municipal structures. The Township shall allow the Collocation of Small WCFs to wireless support structures owned by the Township in accordance with the hierarchy detailed in this section. If collocation would cause structural or safety deficiencies to the municipal structure, the Township may require payment by the applicant of any costs associated with any make-ready work, modification, or replacement needed to accommodate the small WCF in accordance with applicable law. If the WCF Applicant is proposing the Collocation of a Small WCF on a lower priority structure, it shall be a condition to the approval of the application that the WCF Applicant provide evidence that Collocation on a higher priority structure or Wireless Support Structure owned by a third-party is not Technically Feasible. In order from most preferable to least preferable, the Township's Collocation preferences are as follows.
 - (a) Power poles;
 - (b) Traffic signage poles without traffic signals;
 - (c) Traffic signal poles;
 - (d) Decorative light poles.
- (7) Obstruction. Small WCFs and Related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township.
- (8) Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Related equipment, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Township.
- (9) Design standards. All Small WCFs in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Township Department of Building and Zoning.
- (10) Obsolete equipment. As part of the construction, Modification or Replacement of a Small WCF, the WCF Applicant shall remove any obsolete or abandoned equipment from the Wireless Support Structure.

- (11) Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (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 that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Township.
- (12) Insurance. Each person that owns or operates a small WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the small WCF.
- (13) Reimbursement for use of the right-of-way. In addition to permit fees as described in this chapter, every Small WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW in accordance with the Small Wireless Facilities Deployment Act, or other applicable law, and as set forth by resolution of the Shaler Township Board of Commissioners.

SECTION II. AMENDMENT OF DEFINITIONS.

Chapter 225, Article XXII, Section 225-218 "Definitions" of the Shaler Township Zoning Ordinance is hereby amended by repealing the definitions of "Antenna," "Antenna Array," "Camouflaged Antennas," "Camouflaged Tower," "Collocation," "Collocation/Shared Use Communications Facility," "Communications Facility," "Communications Tower," "Communications Tower Site," "Height of Communications Tower," "Monopole Tower," and "Telecommunications Equipment Building."

SECTION III. Miscellaneous

- A. Police powers. The Township, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen, or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.

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

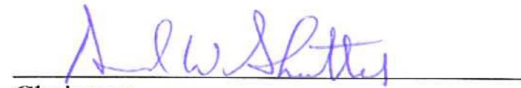
C. Effective Date. This Ordinance shall become effective immediately upon enactment by the Board of Commissioners of the Township of Shaler.

ENACTED AND ORDAINED this 13th day of December, 2022.

ATTEST:

SHALER TOWNSHIP BOARD OF COMMISSIONERS:


Township Manager


Chairman

