

FERGUSON TOWNSHIP PLANNING COMMISSION
Regular Meeting Agenda
Monday, March 28, 2022, 6:00 PM

Hybrid Meeting

REMOTE PARTICIPANTS:

Join Zoom Meeting:

<https://us02web.zoom.us/j/83268113138>

Meeting ID: 832 6811 3138

[Zoom Access Instructions](#)

IN-PERSON PARTICIPANTS:

**Ferguson Township Municipal
Building**

**Main Meeting Room
3147 Research Drive
State College, PA**

I. CALL TO ORDER

II. CITIZENS INPUT

III. APPROVAL OF MINUTES

1. March 14, 2022 Regular Meeting Minutes

IV. OLD BUSINESS

1. Wireless Communication Towers/Act 50 Ordinance

Narrative

On January 10, 2022, Chris Schubert, Esq. on behalf of his client, AT&T, submitted an application to request a text amendment to the Traditional Town Development zoning district that was referred to Planning Commission for further review. Planning Commission reviewed a draft amendment as proposed by the applicant at the February 28, 2022, Planning Commission meeting and discussed implementation options for the Township, as well as identified other sections of the Township's ordinances that would need to be amended. Planning Commission directed staff to draft an amendment to §27-710 as discussed and to include Act 50 amendments for compliance. On March 14, 2022, Planning Commission reviewed the draft amendments and provided additional recommendations that are reflected in the most recent draft.

Provided in the agenda is a draft amendment to §27-710—Wireless Communication Facilities proposed by staff along with revised District quickviews. The amendments included in the agenda are based on research and peer review of other Pennsylvania Municipalities. Staff has identified additional sections that will need to be amended, §22-5B01—Design Standards, §27-1102—Definitions, and District Quicks for the RA, AS, RR, C, FG, I and IRD zoning districts. The blue amendments refer to the request from AT&T and the green amendments refer to the Act 50 amendments. Staff is prepared to discuss the draft.

Staff Recommendation: That the Planning Commission provide the draft to the Board of Supervisors as a recommended amendment.



Visit the Township's Web Site www.twp.ferguson.pa.us and sign up for *Notify Me!* to receive email notices about Township Information.

Recommended Motion: Move that the Planning Commission provide the draft to the Board of Supervisors as a recommend ordinance amendment to §27-710, §22-5B01 and district quicks for the RA, AS, RR, C, FG, I and IRD zoning districts.

V. NEW BUSINESS

1. Application for a Modification/Waiver – Centre Animal Veterinarian Hospital

Tussey Tracks, LLC, owner of Centre Animal Veterinary Hospital, has requested a modification/waiver from Section 22-5A09 –Streetscape Design Standards. Located at 1518 West College Avenue, this plan is located in the Terraced Streetscape Zoning District. Section 22-5A09 of the Ferguson Township Code of Ordinances requires a specific set of design standards for the streetscape.

Design Standards:

- 12 foot sidewalks, scored or stamped, to ADA standards
- 2-foot paver accent
- 4'x24' planter bed with a minimum of one street tree
- Streetlights at pedestrian-scale, period-lighting on decorative poles that incorporate hardware for banners/planters
- “Site Furnishings”:benches, trash and recycling, bike racks, bus shelters and free standing planters
- Streets perpendicular to West College shall provide for similar treatments but at a smaller scale.

Since the Terraced Streetscape Zoning District Standards will be reexamined in the upcoming zoning rewrite, staff is recommending approval of the request.

Staff Recommended: The Planning Commission recommend to the Board of Supervisors approval of the Application for Consideration of a Modification and Waiver for Section 22-5A09 for the Tussey Tracks – Centre Animal Land Development Plan.

Recommended Motion: Move that the Planning Commission make a recommendation to the Board of Supervisors to *approve* to the Application for Consideration of a Modification and Waiver for Section 22-5A09 for the Tussey Tracks – Centre Animal Land Development Plan.

VI. COMMUNICATIONS TO THE COMMISSION

VII. OFFICIAL REPORTS AND CORRESPONDENCE

1. Board of Supervisors Report

2. CRPC Report
3. Land Development Plans
 - a. Farmstead View Subdivision – Awaiting Response to third review
 - b. CVIM – 2026 Sandy Dr – Awaiting Response to second review
 - c. Peace Center and Cemetary – Awaiting Response to first review
 - d. Orchard Square Final LDP – Awaiting Board Approval (4/5)
 - e. Centre Animal Hospital – 3rd staff review started 3/24
 - f. Fusion Japanese Steakhouse – Awaiting Response to first review
 - g. Imbt Subdivision - Awaiting Response to first review
 - h. West College Avenue Vertical Mixed-Use Development – Under Staff first review.
4. Staff Updates

VIII. ADJOURNMENT

**FERGUSON TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
MONDAY, MARCH 14, 2022
6:00 PM**

ATTENDANCE

The Planning Commission held its first meeting of the month on Monday, March 14, 2022, as a zoom meeting. In attendance:

Commission:

Jeremie Thompson – Chair
Jerry Binney – Vice Chair
Rob Crassweller - Secretary
Shannon Holliday
Bill Keough
Lisa Rittenhouse – Alternate
Lewis Steinberg - Alternate
Dr. Ellen Taricani
Ralph Wheland
Qian Zhang - Alternate

Staff:

Jenna Wargo - Planning & Zoning Director
Kristina Bassett - Community Planner
Jeff Ressler - Zoning Administrator

Others in attendance: Rhonda Demchak, Recording Secretary; Chris Schubert, Esquire; Chris Rogan, Ferguson Township Resident; Christopher Lash, Project Manager, Jacobs; Jim Maund, Ferguson Township Resident; Mark Torretti, Penn Terra Engineering; Richard Weidhaas, Ferguson Township Resident; Chad Stafford, Penn Terra Engineering; Justin Mandel, Ferguson Township Residents; Debra Smart, Ferguson Township Business Owner

I. CALL TO ORDER

Mr. Thompson noted that the Planning Commission meeting had been advertised in accordance with the PA Sunshine Act as a virtual zoom meeting with space available in the Township main meeting room for any public members to participant. Persons attending and wanted to participate were asked to enter their name, municipality, and topic by utilizing the Q&A bubble at the bottom of the screen. The chat feature is no longer available on zoom.

Ms. Wargo took roll call, and the Planning Commission had a quorum.

Mr. Thompson called the Ferguson Township Planning Commission's regular meeting to order on Monday, March 14, 2022, at 6:00 p.m.

II. CITIZEN INPUT

There were none.

III. APPROVAL OF MINUTES

Mr. Keough asked to correct the minutes to reflect Ms. Zhang's comment regarding the waterlines to read within the ditch and not into the ditch. Also, Mr. Keough noted that it is not county auctions under Chapter 16, Parks and Recreation but rather it is to be country auctions.

Mr. Keough moved that the Planning Commission **approve** the February 28, 2022, Regular Meeting Minutes as amended. Dr. Taricani seconded the motion. The motion passed unanimously.

IV. OLD BUSINESS

1. Draft Ordinance Amendment - §27-710 Wireless Communications Facilities

Ms. Wargo reported that on January 10, 2022, Chris Schubert, Esq. on behalf of his client, AT&T, submitted an application to request a text amendment to the Traditional Town Development zoning district that was referred to Planning Commission for further review. Planning Commission reviewed a draft amendment as proposed by the applicant at the February 28, 2022, Planning Commission meeting and discussed implementation options for the Township, as well as identified other sections of the Township's ordinances that would need to be amended. Planning Commission directed staff to draft an amendment to §27-710 as discussed.

Provided in the agenda is a draft amendment to §27-710—Wireless Communication Facilities proposed by staff. The amendments included in the agenda are based on research and peer review of other PA Municipalities. Staff has identified additional sections that will need to be amended, §27-303—Traditional Town Development, §27-1102—Definitions, and District Quicks for the RA, AS, RR, C, FG, I and IRD zoning districts and compliance with Act 50 in order to move forward with amendments included in §27-710.

Mr. Keough expressed concerns with the reference to visual impacts and asked what standards were being used to determine if the visual impact is acceptable or unacceptable. Ms. Wargo noted that it is referencing the painting of the tower so that it blends in with the surroundings. Mr. Keough suggested modifying the language to clarify the meaning. Mr. Steinberg concurred with Mr. Keough and expressed his concerns with the word "satisfactory". Mr. Steinberg suggested deleting the first sentence (*Provide evidence satisfactory to the Board of Supervisors that the design of the tower-based WCF effectively minimizes its visual impact*) on page 11 of the agenda packet. Mr. Keough agreed with deleting the first sentence. Mr. Schubert noted that it would be handled in a conditional use process in which the applicant would present 2-3 different design options and the Board of Supervisors would pick the best design.

Mr. Thompson conveyed his concern with the placement of the tower in close proximity of the bike path and pedestrians.

On page 11 item #5 of the agenda packet, Mr. Steinberg asked whether the criteria are specific enough. Ms. Wargo stated that the criteria is specified further along in the amendment.

Dr. Taricani reported that she drove to the site to look around and asked how important it is being located near a populous location versus a non-populous location. Mr. Schubert stated that it is important for the tower to be in the proposed location because it needs to be near the population and road.

Mr. Schubert suggested under item #5 moving the last part of the sentence (*for example, if adjacent to trees or a structure which may provide a visual screen*) to the ending of *visual impact* to add clarity.

Dr. Taricani inquired about the hindering's in other communities with the placement of towers. Mr. Schubert stated that the roadblocks he encounters is ordinances that prohibits them in residential areas.

Mr. Keough noted that the western end of the Township has very little good service and need to look at the Township as a whole.

Ms. Wargo will include the comments into the updated draft and will bring back to the Planning Commission on March 28th.

V. NEW BUSINESS

1. MP Machinery—Parking Analysis/Study

Ms. Wargo reported that Penn Terra Engineering, Inc., on behalf of their client, MP Machinery, has submitted a Parking Analysis/Study for a potential land development plan. Tax parcel 24-433- 007-0000, located at 2161 Sandy Drive, MP Machinery is proposing an addition to its existing structure in an effort to provide additional storage and testing areas. The current proposal includes an additional 8,088 square feet to be added to the building.

Since this proposed use is not included within the Required Off-Street Parking Table, per Chapter 22-5C01.1.B.92, the parking will be determined through a parking analysis/study for Planning Commission to review and recommend the required parking for this project.

A result of the November 2019 Comprehensive Update, §22-5C01.1.B.92 was a new addition to the Subdivision and Land Development Ordinance, and this is the first time Planning Commission is reviewing a request like this.

Staff has reviewed the study and is recommending that 3 additional parking spaces, for a total of 27 on site, be required for the 8,088 square foot addition.

Mr. Crassweller asked what would happen if MP would sell or move. Ms. Wargo stated that a change in use would need to be submitted.

Mr. Binney asked what the MP arguments are and what the recommendations from the staff are for the 3 additional spaces. Ms. Wargo stated that there is no requirement and it's up to the Planning Commission to decide based off the analysis.

Mr. Chad Stafford, Penn Terra Engineering stated that the applicant wants the 3 additional parking spaces.

Mr. Keough inquired if the current entrance will be both an ingress and egress entrance. Mr. Stafford stated that it will remain both. Mr. Keough suggested adding signage for one-way traffic. Mr. Stafford stated that not only will signage be included but will also place indicators on the pavement.

Mr. Wheland moved that the Planning Commission **review** the parking study and recommend that 3 additional parking spaces, for a total of 27, be required with the proposed land development plan to the Board of Supervisors. Mr. Crassweller seconded the motion. The motion passed unanimously.

2. Orchard Square Final Land Development Plan

Ms. Bassett reported that the land development plan proposes the construction of a 19,856 square foot Commercial/retail shopping center with associated parking and utilities. As proposed, there will be 3 retail store fronts and 113 parking spaces⁶.

including 5 ADA handicap spaces provided. The retail spaces are proposed to be 10,722 square feet, 6,483 square feet and 2,566 square feet.

Staff has reviewed the proposed Orchard Square Final Land Development Plan and is recommending conditional approval pending outstanding comments as included in the agenda packet.

Ms. Bassett stated that per the Planning Commission recommendations a connecting sidewalk was added along West College Avenue.

Mr. Keough thanked the developer and engineers for significantly improving the pedestrian access. Mr. Keough inquired about the status of the vehicle access coming from the Sheetz property. Mr. Torretti stated it has been built.

Mr. Crassweller asked if the second-floor apartments were taken out of the original plan. Ms. Wargo stated they were not included.

Mr. Binney asked for an update with the traffic study or additional traffic counts with regards to the Sheetz project and potential impacts with the land development plan. Mr. Torretti reported the original traffic study included Sheetz and Orchard Square, so there are no further updates.

Mr. Keough asked if the island at the rear of the building is a requirement and noted that snow plowing around them is difficult. Mr. Wheland stated they are a nightmare, but you can push the snow on top of the islands.

Dr. Taricani stated that she appreciated all the landscaping and the trees that were added. Mr. Wheland reminded Dr. Taricani that they removed a lot of trees to build.

Mr. Wheland moved that the Planning Commission **make** a recommendation to the Board of Supervisors to conditionally approve the Orchard Square Final Land Development Plan pending outstanding comments included in the agenda. Mr. Crassweller seconded the motion. The motion passed unanimously.

VI. OFFICIAL REPORTS AND CORRESPONDENCES

A. Board of Supervisors

Ms. Wargo noted that the Board met on March 1st. Mr. Thompson presented the 2021 State of Planning Report; authorized a variance for the Park Hills Drainageway; proclamation to recognize Women's History Month; and authorized to proceed with replacing ornamental streetlights for Pine Grove Mills.

B. CRPC Meeting

Dr. Taricani reported they met and discussed the replacement of boardwalks at the Millbrook Marsh; Whitehall Regional Park groundbreaking spring 2022; High Point Park skateboarding area; and a new medical building being built in Patton Township. For roadwork project updates, Dr. Taricani reported that the information can be found [here](#). Mr. Thompson noted that there is an upcoming meeting on April 5th from 3:00 p.m. – 8:00 p.m. at the Calvary Church in Boalsburg regarding updates on the State College Connector.

C. Land Development Plans

Ms. Bassett noted that staff has been busy reviewing plans that were returned. Ms⁷

Bassett reviewed the following:

- Centre Animal Hospital – comments back to reviewer
- Centre Volunteers in Medicine – comments back to reviewer
- Fusion Japanese Steakhouse – completing the review
- Farmstead View Subdivision – developer has plans
- Subdivision of an Imp Property on Blue Course Drive - developer has plans
- New Submission in the TSD for a 75-foot building between Butz and Osmond that will be part commercial and part apartments.

Mr. Keough stated that he likes when Ms. Bassett lists the plans in the agenda and suggested to keep incorporating the lists.

Public Comment

Mr. Jim Maund, Ferguson Township Resident noted that he sent an email to Mr. Thompson with a picture of the tree at the Farmstead View Subdivision. Mr. Thompson will forward Mr. Maund's email to the Planning Commission. Mr. Maund expressed his concern with cutting down a once in a lifetime tree and asked if there is a way to get the developer to understand the importance.

Mr. Keough asked if there was a land development plan submitted for the property. Ms. Wargo stated that a subdivision plan has been submitted and noted that the Tree Commission is recommending that the tree be saved. Ms. Wargo is working with the engineer for the project to get a modification waiver and the conditional use through the process prior to the subdivision plan. There is a way to save the tree, but it is not feasible for the applicant to do so.

Ms. Holliday asked if the tree could be registered as an historical landmark. Ms. Wargo stated that in order for the tree to be designated as a heritage tree, the owner would need to give permission, but the owner wants the tree to be cut down. Ms. Wargo stated that by ordinance they need to preserve the tree, but the owners want to cut it down. It will be decided by the Board of Supervisors if they waive the requirement of the Tree Preservation Ordinance or not.

Mr. Wheland commented that trees have a life span and suggested before a lot of effort is put into saving the tree, have the Township Arborist inspect the tree. Mr. Wheland is in favor of keeping the tree if it is healthy. Ms. Wargo reported the arborist inspected the tree and found it to be healthy.

Mr. Keough reminded Mr. Maund that the Planning Commission can only recommend to the Board of Supervisor who will have the final decision.

Ms. Debra Smart, Owner, Centre Animal Hospital inquired when their plan will appear on the agenda. Ms. Bassett reported that the comments went back to Mr. Todd Smith. Ms. Wargo will email Ms. Smart the dates of the process so far.

D. Staff Updates

Ms. Wargo reported that the new Administrative Assistant for Planning and Zoning will be starting on March 21.

Ms. Wargo stated that they finished interviewing consultants for the RFP.

VII. COMMUNICATIONS TO THE BOARD

As mentioned earlier, Mr. Thompson received a communication from Mr. Maund regarding the tree.

Mr. Keough asked when in person meetings will start. Mr. Thompson discussed with staff, but they need to meet with the leadership team. Mr. Thompson asked the Planning Commission their preference on meeting style. Ms. Holliday preferred the hybrid method. Ms. Zhang prefers the hybrid method but will accommodate as needed. Mr. Keough is more comfortable in person to communicate and noted that people in the western end of the township are not comfortable participating in meetings via zoom.

Ms. Holliday shared that she is a member of the Centre County Bridge of Hope and there is a fundraiser bringing awareness to homelessness on March 25th at 7:00 p.m. to March 26 at 7:00 a.m. More information can be found [here](#). Ms. Holliday will be attending a memorial service for Osaze Osagie on March 20th.

VIII. Adjournment

Mr. Wheland made a motion to **adjourn** the March 14, 2022, Planning Commission meeting at 7:56 p.m. The motion passed unanimously.

Respectfully Submitted,

Rob Crassweller, Secretary
For the Planning Commission

§ 22-5B01 Design Standards.
[Ord. No. 1050, 11/18/2019]

1. Framework Plans.

C. Utilities Network.

(1) Intent. Compact development can be designed to use infrastructure more efficiently, resulting in lower costs per capita for the municipality. More users per linear foot of sewer and water main extensions, as well as lower costs for plowing, paving, and maintaining narrower, well-connected streets are intended to be achieved through the coordinated planning efforts required herein. Additionally, infrastructure that can be provided from a systems approach, without segregating design and regulation according to strict property boundaries, improves connectivity and the overall function of streets, stormwater systems, open space, and other supporting infrastructure.

(2) Design Goals.

- (a) To ensure the efficient extension of existing public infrastructure to serve Traditional Town Development in a coordinated and comprehensive manner.
- (b) To ensure the continued function of groundwater resources by coordinating drainage and stormwater management.
- (c) To guide the placement of utilities and other infrastructure in a manner that does not detract from the overall function and character of the community.

(3) Standards.

- (a) Location. All utilities, both main and service lines shall be provided underground either within private easements or located within an alley right-of-way or public street right-of-way. excluding monopoles. Monopoles shall comply with §27-710—Wireless Communications Facilities.

§ 27-710 Wireless Communications Facilities.
[Ord. No. 1049, 11/18/2019]

1. Intent. The wireless communications facilities (WCF) regulations are intended to achieve the following:

- A. To provide a competitive and wide range of communications services.
- B. To encourage the shared use of existing communication towers, buildings and structures.
- C. To ensure compliance with federal and state regulations.
- D. To promote the health, safety and welfare of Township residents and businesses with respect to wireless communications facilities.
- E. To address modern and developing technologies including, but not limited to, distributed antenna

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systems, data collection units, cable Wi-Fi and other communications facilities.

F. To establish procedures for design, siting, construction, installation, maintenance and removal of both tower-based and non-tower-based wireless communications facilities in the Township, including facilities both inside and outside of the public rights-of-way.

G. To protect Township residents and businesses from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape.

2. General Requirements for All Tower-Based Wireless Communications Facilities. The following regulations shall apply to all tower-based wireless communications facilities:

A. Standard of Care. Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety, and safety-related codes including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

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B. Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the ANSI as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry (ANSFEINTIA-222-E Code, as amended).

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C. Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of ~~200-300~~ feet, or ~~40~~50 feet when located within the ROW, which height shall include all subsequent additions or alterations. Height shall be measured from the average natural grade to the top point of the communications tower or antenna, whichever is greater. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure. Tower-based WCF constructed outside the ROW ~~at a height greater than 200 feet but not to exceed 300 feet~~ shall be permitted as a conditional use in the RA, AR, RR, C, FG, ~~TTD~~, I and IRD ~~zoning D~~ districts by the Board of Supervisors if the following criteria are met:

(1) The applicant shall provide documentation to the Township which details the commitment to provide capacity on the proposed tower-based WCF to more than one provider. The document must also describe whether the additional tower height that is required to provide the capacity to the additional provider(s) and if so. ~~The document shall~~ also show that by providing the additional height and capacity, there will not be a need from the involved companies for an additional tower outside the ROW within a radius of one mile of the site. The burden of proof shall be on the applicant to show that the proposed tower is the minimum height needed to provide the required service.

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(2) If the proposed tower-based WCF is greater than 199 feet and less than 300 feet in height,

The applicant shall provide documentation to the Township that the additional height limitation of 200 feet will require-render the construction of two or more towers as nonessential and that by permitting an increase in the height of the tower, only one tower will be required. The burden of proof shall be on the applicant to show that the proposed tower is the minimum height needed to provide the required services. The purpose of this conditional-use provision is to permit an increase in the height of one tower to reduce the need for additional towers.

(3) Tower-based WCFs shall employ stealth technology, which may include painting the tower portion silver or another color, utilizing a galvanized or "self-rusting" finish, or designing as a tree or other structure as approved by the Board of Supervisors.

(4) A plan shall be required for all wireless communication facilities showing the antenna array, support structure, building, fencing, buffering, access, and such other information as the Township may require illustrating the relationship between the proposed facility and adjacent structures and property lines.

(5) Setback and Location requirements may be modified by conditional use if the Board of Supervisors finds that placement of a wireless communication facility with support structure in a particular location will reduce its visual impact, or for other reasons as presented during the hearing.

(6) Comply with the standards of approval for all wireless communication facilities as set forth in this chapter §27-710.

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D. Public Safety Communications. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

E. Maintenance. The following maintenance requirements shall apply:

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(1) Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair, except as permitted and in accordance this section.

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(2) 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.

(3) All maintenance and activities shall utilize the best available technology for preventing failures and accidents.

F. Radio Frequency Emissions. No tower-based WCF may, by itself or in conjunction with other WCF, generate radio frequency emissions in excess of the standards and regulations of the Federal Communications Commission (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. The applicant shall provide, upon request, a statement from a qualified licensed and professional registered engineer

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that the non-ionizing electromagnetic radiation (NIER) emitted from the tower-based WCF, when measured in conjunction with the emissions from all communications antenna on the tower, does not result in an exposure at any point on or outside such facility which exceeds the lowest applicable exposure standards established by the FCC or the ANSI.

- G. Historic Buildings or Districts. No tower-based WCF may be located on or within 200 feet of a site that is listed on an historic register, a site listed for inclusion on the historic register, or in an officially designated state or federal historic district.
- H. Identification. All tower-based WCF shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township. The notice shall not exceed two square feet in gross surface area and shall maintain the contact party.
- I. Lighting. Tower-based WCF shall not be artificially lighted, except as required by the Federal Aviation Administration and as may be approved by the Township. 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. No flag shall be located on the structure that requires lighting.
- J. Appearance. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color as determined by the Township Planning and Zoning Director to harmonize with the surroundings.
- K. Noise. Tower-based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and Chapter 10, Part 3, of the Ferguson Township Code of Ordinances, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- L. Aviation Safety. Tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- M. 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 section. The 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.
- N. Timing of Approval. 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 applicant, in writing, of any information that may be required to complete such application. All complete applications for tower-based WCF shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF, and the Township shall advise the applicant, in writing, of its decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.

O. Nonconforming Uses. Nonconforming tower-based WCF 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. Co-location of facilities may be permitted on nonconforming structures in accordance with standards established in the Pennsylvania Wireless Broadband Collocation Act.

P. 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 WCF or portions of WCF shall be removed as follows:

(1) All unused or abandoned tower-based WCF and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.

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(2) If the WCF and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

(3) Any unused portions of tower-based WCF, 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 previously removed.

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Q. Application Fees. The Township may assess appropriate and reasonable application fees directly related to the Township's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs.

3. Tower-Based Wireless Communications Facilities Outside the Rights-of-Way. The following regulations shall apply to tower-based wireless communications facilities located outside of the right-of-way (ROW):

A. ~~Permitted Only in Certain Zones. No tower based WCF shall be permitted within 500 feet of the nearest adjoining property line.~~ Tower Setbacks and Location. A tower-based WCF located outside of the ROW shall comply with the following:

(1) The tower shall be located at least half (1/2) the height of the tower from all adjoining property lines.

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(2) Towers shall not be closer than 300 feet to any residential building.

(3) Towers shall not be closer than 3,000 feet to any other existing tower-based WCF located outside of the ROW.

(4) Tower-based WCF shall only be permitted as designated in zoning districts as identified within the chapter.

B. Evidence of Need. It is required that the applicant for the placement of a tower-based WCF that will exceed 4050 feet in height shall submit to Ferguson Township evidence of the need for the tower-based WCF in the proposed location and that the applicant has exhausted all alternatives to locate on an existing tower or structure (co-location). In addition, the applicant must demonstrate via written evidence from a qualified, licensed, and professional engineer that, in terms of location and construction, there are no existing towers, tower-based WCF, buildings, structures, elevated tanks or similar uses able to provide the platform for the antenna within a one-mile radius of the chosen location, unless the applicant can demonstrate to the satisfaction of the Township that a different distance is more reasonable. Co-location is not possible if:

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(1) Coverage diagrams and technical reports demonstrate that co-location on an existing tower-based WCF is not technically possible in order to serve the desired need.

(2) Planned equipment would exceed the structural capacity of existing towers within the Township, considering existing and planned use of those towers and existing towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.

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(3) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for that tower and the interference cannot be prevented at a reasonable cost.

(4) Existing or approved towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned.

(5) Other reasons can be demonstrated to the satisfaction of the Township that make it impractical to place the equipment planned by the applicant on existing and approved towers.

C. Sole Use on a Lot. A tower-based WCF is permitted as the sole use on a lot subject to the minimum lot size and setbacks complying with the requirements of the applicable zoning district.

D. Combined with Another Use. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another agricultural, industrial, commercial, or municipal use, subject to the following conditions:

(1) The existing use on the property may be any permitted use in the applicable zoning district and need not be affiliated with the communications facility.

(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 tower-based WCF, the communications facility building, security fence, and buffer planting.

(3) Minimum Setbacks. The ~~tower based WCF and~~ accompanying communications facility building and equipment shall comply with the requirements for the applicable zoning district, ~~provided that no tower based WCF shall be located within 500 feet of the nearest adjoining property line.~~

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E. Notice. Upon receipt of a letter of a complete application by the Township for a tower-based WCF, the applicant shall mail notice thereof to the owner or owners of every property within 500 radial feet of the parcel or property of the proposed facility. The applicant shall provide the Township with evidence that the notice was mailed out to applicable property owners.

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F. Design and Construction.

- (1) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- (2) To the extent permissible under applicable law, any height extensions to an existing tower-based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
- (3) 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 at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Tower-based WCF must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.
- (4) Guy wires are not permitted. The monopole must be self-supporting.

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G. Surrounding Environs. A soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA/TIA-222-G Manual, as amended, shall be submitted to the Township to document and verify design specifications of the foundation for the tower-based WCF.

H. Fence/Screen.

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- (1) A security fence of approved design, of not less than eight feet in height and no greater than 10 feet in height, shall completely enclose the tower-based WCF. The fencing required in must also have a one-foot barbed arm slanted at a 45° angle which runs along the entire top of the fence ~~unless the Board of Supervisors waives such requirement.~~
- (2) The applicant shall submit a landscaping plan. Sites in which communications towers are located shall be required to comply with the following landscape requirements:
 - (a) Landscaping, consisting of evergreen plantings which shall reach a height of at least eight feet within five years of planting shall be required at the perimeter of the security fences and WCF. Existing wooded areas, tree lines and hedgerows adjacent to the facility shall be preserved and used to substitute or meet a portion of the buffer yard requirements. When the WCF is located in a developed ~~commercial or industrial~~ area, the Board of Supervisors may waive the buffer yard regulations in exchange for another type of screening which is compatible with the surrounding land use.

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(3) Where feasible/appropriate, the tower or antenna shall be constructed to blend in with the surrounding area.

(4) No signs or any form of advertising of any kind shall be permitted on the WCF or antennas. However, one sign, not to exceed two square feet in gross surface area, which identifies the phone number and contact in the event of an emergency is required. In addition, "No Trespassing" signs may be placed on the security fencing in accordance with the Township's Sign Ordinance (Chapter 19).

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I. Accessory Equipment.

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(1) Ground-mounted equipment associated with, or connected to, a tower-based WCF shall be underground, if possible. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground-mounted equipment shall be screened from public view using stealth technologies, as described above.

(2) All buildings and structures associated with a tower-based WCF shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

J. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. The vehicular access to the tower-based WCF and communications facility building shall meet the applicable municipal street standards for private streets and/or driveway standards. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

K. Inspection. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this section and any other provisions found within the Township Code of Ordinances 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.

~~4. Tower Based Wireless Communications Facilities Inside the Rights of Way. The following regulations shall apply to tower based wireless communications facilities located in the rights of way (ROW):~~

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~~A. Permitted Where Aboveground Utility Infrastructure Exists. No tower based wireless communications facilities shall be located in areas where utility infrastructure is installed underground.~~

Commented [WJ1]: This whole section to be repealed in its entirety and replaced with a Small Cell Facilities ordinance (§27-710A—Small Cell Facilities. This section is no longer relevant, since all of the operative issues comply with Act 50 and federal law are now addressed in (new) Section 710A.

~~(1) In areas not served by aboveground utility infrastructure, tower based WCF may be constructed at intersections of arterial and arterial street classifications and arterial and collector street classifications to provide coverage and capacity.~~

~~B. Evidence of Need. It is required that the applicant for the placement of a tower-based WCF shall submit to Ferguson Township evidence of the need for the tower-based WCF in the proposed location and that the applicant has exhausted all alternatives to locate on an existing tower or structure (co-location). In addition, the applicant must demonstrate via written evidence from a qualified, licensed, professional engineer that, in terms of location and construction, there are no existing towers, tower-based WCF, buildings, structures, elevated tanks or similar uses able to provide the platform for the antenna within a 1/2 mile radius of the chosen location, unless the applicant can demonstrate to the satisfaction of the Township that a different distance is more reasonable. Co-location is not possible if:~~

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~~(1) Capacity diagrams and technical reports demonstrate that co-location on an existing tower-based WCF is not technically possible in order to serve the desired need.~~

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~~(2) Planned equipment would exceed the structural capacity of existing towers within the Township, considering existing and planned use of those towers and existing towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.~~

~~(3) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for that tower and the interference cannot be prevented at a reasonable cost.~~

~~(4) Existing or approved towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned.~~

~~(5) Other reasons can be demonstrated to the satisfaction of the Township that make it impractical to place the equipment planned by the applicant on existing and approved towers.~~

~~C. Notice. Upon submission of an application for a tower-based WCF, the applicant shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility. The applicant shall provide the Township with evidence that the notice was mailed out to applicable property owners.~~

~~D. Co-Location. An application for a new tower-based WCF in the ROW shall not be approved unless the Township finds that the proposed wireless communications equipment cannot be accommodated on an existing structure, such as a utility pole. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a 1/2 mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized. Co-location shall not be permitted on ornamental streetlight fixtures.~~

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~~E. Time, Place, and Manner. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all tower-based WCF 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.~~

~~F. Equipment Location. Tower-based WCF and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township in addition:~~

~~(1) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb. In the absence of a curb, facility must be located outside the safe clear zone of the roadway as determined by Public Works Director.~~

~~(2) Ground-mounted equipment that cannot be underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.~~

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~~(3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.~~

~~(4) Any graffiti on the tower or any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.~~

~~(5) Any underground vaults related to tower-based WCF shall be reviewed and approved by the Township.~~

~~G. Design Regulations.~~

~~(1) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize the aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.~~

~~(2) Any height extensions to an existing tower-based WCF shall require prior approval of the Township, and shall not increase the overall height of the tower-based WCF to more than 50 feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact or any other lawful considerations related to the character of the Township.~~

~~(3) Guy wires are not permitted. The monopole must be self-supporting.~~

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~~H. Additional Antennas. As a condition of approval for all tower-based WCF in the ROW, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennas on tower-based WCF where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Township.~~

~~I. 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 tower-based 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 the applicable public utility commission regulations, shall determine that such removal, relocation, change, or alteration is reasonably necessary under the following circumstances:

- ~~(1) The construction repair, maintenance, or installation of any Township or other public improvement in the right of way.~~
- ~~(2) The operations of the Township or other governmental entity in the right of way.~~
- ~~(3) Vacation of a street or road or the release of a utility easement.~~
- ~~(4) An emergency as determined by the Township.~~

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~~J. Compensation for ROW Use. In addition to the permit fees, every tower based 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. Such compensation for ROW use shall 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 tower based WCF 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. The annual ROW management fee for tower based WCF shall be determined by the Township and authorized by resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such tower based WCF.~~

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~~K. Restoration Deposit. Prior to the issuance of a permit, the owner of each individual tower based WCF shall, at its own cost and expense, deliver a restoration deposit in an amount determined by the Director of Public Works, or his designee. The return of the deposit shall be contingent upon the proper restoration of the ROW and compliance with the terms and conditions of this section. Upon installation of the tower based WCF, the applicant shall notify the Township that the site is ready for inspection. The Public Works Director or his designee shall inspect the site and, if it is found to be satisfactory, the restoration deposit shall be refunded to the applicant within 30 days. The restoration deposit may be forfeited in whole or in part to the Township if any work is found to be incomplete or not in compliance with all applicable standards.~~

5. General Requirements for All Non-Tower-Based Wireless Communications Facilities.

- A. For the purposes of this section, the regulations shall only apply to non-tower-based wireless communications facilities that are not regulated by the Pennsylvania Wireless Broadband Collocation Act, except where noted or where otherwise permitted by law.
- B. The following regulations shall apply to all non-tower-based wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached, as defined above:

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- (1) Permitted in All Zones Subject to Regulations. Non-tower-based WCF are permitted in all

zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.

- (2) Standard of Care. Any non-tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety, and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any non-tower-based WCF shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- (3) Wind. Any non-tower-based WCF structure 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-G, as amended).
- (4) Public Safety Communications. No non-tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- (5) Aviation safety Non-tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (6) Radio Frequency Emissions. No non-tower-based WCF shall, by itself or in conjunction with other WCF, 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.
- (7) Removal. In the event that the use of a non-tower-based WCF 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 WCF or portions of WCF shall be removed as follows:
 - (a) All abandoned or unused WCF and accessory facilities shall be removed within three months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the WCF and/or accessory facilities are not removed within three months of the cessation of operations, or within any longer period of time approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
- (8) Timing of Approval. Within 30 calendar days of the date that an application for a non-tower-based WCF 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

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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. 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 Township's sixty-day review period. This standard shall only apply to facilities that are regulated by the Pennsylvania Wireless Broadband Collocation Act.

- (9) Application 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 non-tower-based WCF, as well as related inspection, monitoring and related costs. Such fees may be assessed by applicable federal or state statute for relevant co-located facilities and other non-tower-based WCF.

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C. The following regulations shall apply to all non-tower-based wireless communications facilities that substantially change the wireless support structure to which they are attached:

- (1) Permitted in All Zones Subject to Regulations. Non-tower-based WCF are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
- (2) Standard of Care. Any non-tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety, and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any non-tower-based WCF shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- (3) Wind. Any non-tower-based WCF structure 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-G, as amended).
- (4) Public Safety Communications. No non-tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- (5) Historic Buildings. Non-tower WCF may not be located on a building or structure that is on an historic register or a building or structure listed for inclusion on a historic register.
- (6) Aviation Safety. Non-tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (7) Maintenance. The following maintenance requirements shall apply:
 - (a) The non-tower-based WCF shall be fully automated and unattended on a daily basis

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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 technologies for preventing failures and accidents.

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- (8) Radio Frequency Emissions. No non-tower-based WCF shall, by itself or in conjunction with other WCF, 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) Removal. In the event that the use of a non-tower-based WCF 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 WCF or portions of WCF shall be removed as follows:

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- (a) All abandoned or unused WCF and necessary facilities shall be removed within three months of the cessation of operations at the site unless a time extension is approved by the Township.

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- (b) If the WCF or accessory facility is not removed within three months of the cessation of operations, or within any longer period of time approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

- (c) Timing of Approval. Within 30 calendar days of the date that an application for a non-tower-based WCF 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. 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 Township's sixty-day review period. This standard shall only apply to facilities that are regulated by the Pennsylvania Wireless Broadband Collocation Act.

- (d) 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 non-tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this section. The 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.

- (e) Restoration Deposit. Prior to the issuance of a permit, the owner of each individual tower-based WCF shall, at its own cost and expense, deliver a restoration deposit in an amount determined by the Director of Public Works, or his designee. The return of the deposit shall be contingent upon, where applicable, the proper restoration of the ROW and compliance with the terms and conditions of this section. Upon installation of the tower-based WCF, the applicant shall notify the Township that the site is ready for inspection. The Public Works Director or his designee shall inspect the site and, if it is found to be satisfactory, the restoration deposit shall be refunded to the applicant within 30 days. The restoration deposit may be forfeited in whole or in part to the Township if any work is found to be incomplete or not in compliance with all applicable standards.
- (f) 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 non-tower-based WCF, as well as related inspection, monitoring and related costs.

6. Non-Tower-Based Wireless Communications Facilities Outside the Rights-of-Way. The following additional regulations shall apply to non-tower-based wireless communications facilities located outside the rights-of-way that substantially change the wireless support structure to which they are attached:

A. Development Regulations. Non-tower-based WCF shall be co-located on existing structures such as existing building or tower-based WCF subject to the following conditions:

- (1) Such WCF does not exceed a maximum height of 10 feet above the permitted height of any structure in the applicable zoning district.
- (2) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (3) A six-foot-high security fence with evergreen screening shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

B. Design Regulations.

- (1) Non-tower-based WCF shall employ stealth technology and be treated to match the supporting structure in order to minimize the aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- (2) Non-tower-based WCF which are mounted to a building or similar structure may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use approval.

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- (3) All non-tower-based WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in context of such justification on an individual basis.
- (4) Antennas, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
- (5) Noncommercial Usage Exemption. The design regulations enumerated in § 27-710, Subsection 6A(2), shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.

C. Removal, Replacement, and Modification.

- (1) The removal and replacement of non-tower-based WCF and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennas.
- (2) Any material modification to a WCF shall require prior amendment to the original permit or authorization.

D. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this section and any other provisions found within the Township Code of Ordinances 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.

7. ~~Non Tower Based Wireless Communications Facilities in the Rights of Way. The following additional regulations shall apply to all non tower based wireless communications facilities located in the rights of way:~~

~~A. Location. Non tower based WCF in the ROW shall be co located on existing poles, such as utility poles. Co location shall not be permitted on ornamental streetlight fixtures.~~

~~B. Design Requirements.~~

~~(1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.~~

~~(2) Antennas and all support equipment shall be treated to match the supporting structure. WCF and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.~~

~~C. Compensation for ROW Use. In addition to the permit fees as described in § 27-710,~~

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Commented [WJ2]: This section should be repealed in its entirety and replaced with a Small Cell Facilities ordinance (§27-710A—Small Cell Facilities). This section is no longer relevant.

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~~Subsection 5B(9), and otherwise herein, every non tower based 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. Such compensation for ROW use shall 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 non tower based WCF 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. The annual ROW management fee for non tower based WCF shall be determined by the Township and authorized by resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such non tower based WCF.~~

~~D. Time, Place, and Manner. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all non tower based WCF 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.~~

~~E. Equipment Location. Non tower based WCF and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:~~

~~(1) In no case shall ground mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb. In the absence of a curb, facility must be located outside the safe clear zone of the roadway as determined by Public Works Director.~~

~~(2) Ground mounted equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground mounted equipment cannot be underground, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.~~

~~(3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.~~

~~(4) Any graffiti on the tower or any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.~~

~~(5) Any underground vaults related to tower based WCF shall be reviewed and approved by the Township.~~

~~F. Relocation or Removal of Facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is seasonably necessary, or such other period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change, or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility~~

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~~Commission regulations, shall have determined that such removal, relocation, change, or alteration is reasonably necessary under the following circumstances:~~

- ~~(1) The construction, repair, maintenance, or installation of any Township or other public improvement in the right-of-way.~~
- ~~(2) The operations of the Township or other governmental entity in the right-of-way.~~
- ~~(3) Vacation of a street or road or the release of a utility easement.~~
- ~~(4) An emergency as determined by the Township.~~

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~~G. Visual and/or Land Use Impact. The Township retains the right to deny an application for the construction or placement of a non tower based WCF based upon visual and/or land use impact.~~

8. Violations Applicable to All Wireless Communications Facilities.

- A. Penalties. Any person violating any provision of this section shall be subject, upon finding by a Magisterial District Judge, to a penalty not exceeding \$500, for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this section and any other remedy at law or in equity, the Township may apply to a federal district court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this section.
- B. Determination of Violation. In the event a determination is made that a person has violated any provision of this section, such person shall be provided written notice of the determination and the reasons therefor. Except in the case of an emergency, the person shall have 30 days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided that person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this section and/or federal and/or Pennsylvania law and regulations.

9. Miscellaneous.

- A. Police Powers. The Township, by granting any permit or taking any other action pursuant to this section, 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 section 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 section invalid.

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§ 27-710A Small Wireless Facilities

1. Purpose and Intent.

- A. The purpose of this Chapter is to establish procedures and standards, consistent with all applicable federal and state, laws, for the consideration, permitting, siting, construction, installation, collocation, modification, operation, regulation and removal of Small Wireless Facilities (“SWF”) in the public right-of-way of streets and roads.
- B. The intent of this Chapter is to:
- (1) Establish basic criteria for applications to install and/or collocate SWFs in the public right-of-way;
 - (2) Ensure that SWFs are appropriately designed, constructed, modified, maintained, and removed when no longer in use in conformance with all applicable health and safety regulations;
 - (3) Preserve the character of the Township by minimizing the potentially adverse visual impact of SWFs through careful design, siting, landscaping and camouflaging techniques to blend these facilities into their environment to the maximum extent practicable;
 - (4) Establish an application process and structure for payment of fees and charges to be uniformly applied to all applicants, operators and owners of SWFs for such facilities;
 - (5) Comply with, and not conflict with or preempt, all applicable state and federal laws, as may be amended or superseded, and all FCC rules and regulation to interpret and implement applicable federal statutes; and
 - (6) Limit interference with the use of streets, sidewalks, alleys, parkways, public utilities, public views, certain Township corridors, and other public ways and places.
- C. Zoning. Applications to collocate a SWF or install or modify an associated utility pole in the rights-of-way shall be treated as a permitted use pursuant to Act 50 of 2021, the *Small Wireless Facilities Deployment Act*, and exempt from local zoning where required by the Act. All other wireless facilities not meeting the definition of a small wireless facility shall remain subject to applicable zoning requirements.
- D. This Chapter is intended to implement the requirements of the *Small Wireless Facilities Deployment Act*. Failure of the Township to include all language set forth in that Act in this Ordinance does not constitute a waiver of any right under the Act.

2. Applicability.

- A. The provisions of this Chapter shall only apply to activities of a wireless provider within the right-of-way to deploy SWFs and associated new utility poles with small wireless facilities attached.

3. Definitions.

The following words and phrases when used in this Chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

ACCESSORY EQUIPMENT

Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term ‘Accessory Equipment’ includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures.

APPLICABLE CODES

Any of the following: (1) uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons. (2) Ferguson Township zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances.

APPLICANT

A communications service provider that submits an application.

APPLICATION

A request submitted by an applicant to the Township (1) for a permit to collocate small wireless facilities; or (2) to approve the installation, modification or replacement of a utility pole with a small wireless facilities to be attached.

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.

FEDERAL COMMUNICATIONS COMMISSION OR “FCC”

The Federal Communications Commission.

MICRO WIRELESS FACILITY

A small wireless facility that (1) does not exceed two cubic feet in volume and (2) has an exterior antenna no longer than 11 inches.

MODIFICATION OR MODIFY

The improvement, upgrade, expansion or replacement of a wireless communications facility or base station on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facility located within an existing equipment compound, if the improvement, upgrade, or expansion does not substantially change the physical dimensions of the wireless support structure.

TECHNICALLY FEASIBLE

By virtue of engineering or spectrum usage, the proposed placement for a wireless facility or its design or site location can be implemented without a material reduction in the functionality of the wireless facility.

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.

WIRELESS PROVIDER

A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES

Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER

A person who provides wireless services.

4. Right-of-Way Rates and Fees.

Wireless providers shall be required to pay an annual Wireless Use Fee for the use of the right-of-way. The Wireless Use Fee shall be set by Resolution of the Township Board of Supervisors. The Township may amend the fee from time to time by resolution of the Township Board of Supervisors to a rate not to exceed the maximum rate which it demonstrates is a reasonable approximation of the Township's costs to manage the right-of-way, consistent with law.

5. Right of Access.

A. In accordance with the Small Wireless Facilities Deployment Act, and with the permission of the owner of the structure, a wireless provider shall have the right to perform the following within the public right-of-way:

(1) Collocate a small wireless facility.

(2) Replace an existing utility pole or install a new utility pole with attached small wireless facilities.

B. Collocation. In accordance with the Small Wireless Facilities Deployment Act, collocation on Township-owned poles may be permitted unless the small wireless facility would cause structural or safety deficiencies to the municipal pole, in which case the Township and applicant shall work together for any make-ready work or modifications or replacements that are needed to accommodate the small wireless facility.

C. All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the Township and utilities.

6. Permitted Use: Application and Fees

A. Permit Required. No person shall place a SWF or associated utility pole in the ROW, without first filing an application and obtaining a permit therefore, except as otherwise provided in this Chapter.

B. Application. All applications for the permits filed pursuant to this Chapter shall be on a form, paper or electronic, provided by the Township.

C. Application Requirements. An application shall be made by the wireless provider or its

duly authorized representative, and shall contain at a minimum the following:

- (1) The wireless provider's name, address, telephone number, and e-mail address.
 - (2) The applicant's name, address, telephone numbers, and e-mail address, if different than the wireless provider, and its interest in the work.
 - (3) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.
 - (4) A general description of the proposed work and the purposes and intent of the small wireless facilities. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.
 - (5) A site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the ROW, including any manholes or poles, the size, type, and depth of any conduit or enclosure.
 - (6) An attestation that the SWFs will be operational for use by a wireless services provider within one year after the permit issuance date unless the Township and the applicant agree to extend this period.
 - (7) An attestation that to the best of the applicant's knowledge, the information contained in the application is true.
 - (8) Whether each SWF is proposed to be installed on an existing pole or structure or a new pole or structure.
 - (9) The name of the owner of the pole or structure on which the SWF is proposed to be installed and the address, phone number, email address of the owner's contact person.
 - (10) If a SWF is proposed to be installed on a pole or structure owned by a party other than the applicant, the application shall be accompanied by a written confirmation of the owner's agreement to allow the applicant to locate each SWF on such owner's pole or structure.
 - (11) Documentation in form of both narrative and drawings indicating the size of each proposed SWF, the height of the pole or structure on which each is proposed to be installed, and the cubic volume of each SWF.
- D. When Application Not Required. An application shall not be required for: (i) routine maintenance; (ii) the replacement of a small wireless facility with another small wireless facility that is substantially similar in size, weight, and height; or (iii) for the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code. A permit may be required to perform work within the right-of-way for the activities under paragraph (D), for work that involves excavation, closure of a sidewalk or closure of a vehicular lane.

- E. Application Fees. All applications for permits for SWFs shall be accompanied by an Application Processing and Review Fee to be set by Resolution of the Board of Supervisors and may be amended from time to time. The applicant will be assessed an additional Application Processing and Review Fee at the end of the review process should the Township's actual costs of reviewing the application exceed the Application Processing and Review Fee. This Application Processing and Review Fee will be equal to 100% of the Township's costs (including administration, overhead, legal, consulting, etc.) for the review and processing of the Application and granting a Use Agreement. Upon approval of an Application and written acceptance of the Township's authorization by an Applicant, the Applications Processing and Review Fee shall be invoiced to the Applicant.
- F. Consolidated Applications. An applicant may submit a consolidated Application for up to 20 SWFs, subject to the following:
 - (1) A single applicant shall not exceed applications for 20 SWFs in a 30-day period;
 - (2) The denial of one or more SWFs in a consolidated application shall not delay processing of any other SWFs in the same consolidated application;
 - (3) A single permit may be issued for siting and collocating multiple SWFs spaced to provide wireless coverage in a contiguous area; and
 - (4) If multiple applicants submit applications cumulatively exceeding 20 SWFs applications within a 30-day period, the extensions to deadlines provided for in the Small Wireless Facilities Act shall apply.

7. Action on Permit Applications.

A. Review of Small Wireless Facility and Utility Pole Applications.

- (1) Within ten days of receiving an initial application, the Township will determine and notify the applicant whether the application is materially complete. In an application is materially incomplete, the Township will specifically identify the missing documents or information, and the specific rule or regulation creating the obligation to submit such documents or information. The review clock set forth in subsection (2) shall restart at zero on the date which the applicant submits all documents and information identified by the Township to make the application complete. If the applicant's supplemental submission fails to make the application complete, and the Township notifies the applicant within 20 days of the supplemental submission and clearly and specifically identifies the missing documents or information, the applicable review clock set forth in subsection (2) shall be tolled until the applicant provides the missing documents and information. The review clock resumes on the date when the applicant submits all the documents and information. The review clock resumes on the date when the applicant submits all the documents and information identified by the Township to render the applicant complete.
- (2) All applications shall be processed on a non-discriminatory basis, and the Township shall approve or deny an application for: (i) collocation of SWFs on an existing structure within 60 days of receipt of the application, or (ii) within 90 days for applications to deploy a SWF using a new structure.

- (3) An applicant and the Township may enter into a written agreement to toll the time periods set forth in Subsection (2).
 - (4) If the Township fails to issue a decision on an application for a SWF within the required time periods set forth in Section 27-710.7(A)(2), it shall constitute a deemed approval.
 - (5) A Township may deny a proposed collocation of a SWF or installation or modification of a utilities pole only if the proposed application:
 - i. The SWF materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101•336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement.
 - ii. The SWF fails to comply with the applicable codes.
 - iii. The SWF fails to comply with the requirements specified under the Small Wireless Facilities Deployment Act.
 - iv. The applicant fails to submit a report by a qualified engineering expert which shows that the SWF will comply with applicable FCC regulations.
 - (6) The Township must document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the Township denies an application. The applicant may cure the deficiencies identified by the Township and resubmit the application within 30 days of the denial without paying an additional application fee. The Township shall approve or deny the revised application within 3 days. Any subsequent review shall be limited to the deficiencies cited in the denial.
 - (7) The applicant may cure the deficient identified by the Township and resubmit the application within 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 30 days of the application being resubmitted for review or the resubmitted application shall be limited to the deficiencies cited in the denial. If the resubmitted application addresses or changes other section of the application that were not previously denied, the Township shall be given an additional 15 days to review the resubmitted application and may charge an additional fee for the review.
- B. Permit Scope and Effect. Installation, modification, or collocations for which a permit is granted pursuant to this section shall be completed within one year after the permit issuance date unless the Township and the applicant agree to extend this period. Approval of an application authorizes the applicant to:
- (1) Collocate on an existing utility pole, modify, or replace a utility pole or install a new utility pole with SWFs attached as identified in the initial application.
 - (2) Subject to the permit requirements and the applicant's right to terminate at any time, operate and maintain SWFs and any associated equipment on a utility pole

covered by the permit for a period of five years, which shall be renewed for two additional five-year periods if the applicant is in compliance with the criteria set forth in the Small Wireless Facilities Deployment Act and applicable codes, and the applicant has obtained all necessary consent from the utilities pole owner.

- C. Authority Granted; No Property Right or Other Interest Created. A permit from the Township authorizes an applicant to undertake only certain activities in accordance with this Chapter and does not create a property right or grant authority to the applicant to impinge upon the rights of other who may already have an interest in the ROW.

8. Design Criteria and Permit Review.

- A. Upon receipt of a completed application for a SWF Permit and all required fees, the Township Zoning Officer or respective designee shall review the application to determine whether the proposed SWF and support structure or pole comply with the following design criteria:

- (1) The structure on which antenna facilities are mounted: (a) an existing utility pole, provided the installation does not extend more than 5 feet above the pole; and (b) a new or replacement pole are not taller than 50 feet. Any height in excess of these limits shall require an application to the Zoning Hearing Board for a variance;
- (2) Each antenna associated with the deployment (excluding the associated equipment) may be no more than three cubic feet in volume; and
- (3) All other equipment associated with the facility (excluding antenna) are cumulatively no more than 28 cubic feet in volume.

B. General Design Requirements

- (1) The Township may adopt by resolution Small Wireless Facility Design Guidelines with objective technically feasible criteria applied in a non-discriminatory manner that reasonably match the aesthetics and character of the immediate area.
- (2) The Small Wireless Facility Design Guidelines may include examples of SWF preferences including visual depictions (if readily available and identified by the Township).
- (3) The provisions in this Chapter shall not limit or prohibit the Township's discretion to promulgate and make publicly available other information, materials, or requirements in addition to, and separate from, Small Wireless Facility Design Guidelines so long as the information, materials, or requirements do not conflict with federal or state law.
- (4) All SWFs and associated equipment located within the Public Right-of-Way shall be located such that it meets ADA requirements and does not hinder, obstruct or impede usual pedestrian and vehicular travel.
- (5) The Township shall have the authority to update or supplement the Small Wireless Facility Design Guidelines to address relevant changes in law, technology, or administrative processes.
- (6) Wireless Support Structure Design Standards.

i. General Guidance.

1. SWF equipment must be indistinguishable from the support pole or structure to the greatest degree possible using matching colors, textures, and materials. The antennas and related equipment shall be in a color that will provide the most camouflage.
2. All wires, antennas, and other small wireless facility equipment shall be enclosed and not visible.
3. Screening and equipment enclosures shall blend with or enhance the surrounding context in terms of scale, form, texture, materials, and color. Equipment shall be concealed as much as possible by blending into the natural and/or physical environment.
4. Casing to enclose all wires, antennas, and other small wireless facility equipment may be mounted on top of existing and new poles in a cylinder shape to look like an extension of the pole.
5. Signage on all SWF will be no larger than required to be legible from street level. It may include contact information to be used by workers on or near the SWF and as otherwise required by federal or state law.
6. As a condition for approval of new SWFs or new Wireless Support Structure in a Historic District, the Applicant shall comply, to the greatest extent possible, with the design and aesthetic standards of the Historic District, or historic preservation standards in place, to minimize the negative impact to the aesthetics in these districts or areas.

9. Removal of Equipment.

- A. Within 60 days of a suspension or revocation of a permit due to noncompliance with applicable codes, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole, after receiving adequate notice and an opportunity to cure any noncompliance.
- B. Within 90 days of the end of a permit term or an extension of the permit term, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless and associated equipment are the only facilities on the utility pole.

10. Restoration of the Right-of-Way.

Applicants are required to repair all damage directly caused by the activities of the applicant and return the right-of-way in as good of condition as it existed prior to any work being done. If the applicant fails to make the repairs required by the Township within 30 days after written notice, the Township may perform those repairs and charge the provider the reasonable, documented cost of the repairs plus a penalty not to exceed \$500. The Township may suspend the ability of an applicant to receive a new permit from the Township until the applicant has paid the amount assessed for the repair costs and the assessed penalty.

11. Indemnification.

Each person that owns or operates a Non-Tower 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 connect with any act or omission of the person., its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operations, maintenance or removal of the Non-Tower WCF. Each person that owns or operates a Non-Tower WCF shall defend any actions or proceedings again 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 Non-Tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgements, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

12. Other Ordinances.

Nothing in this Ordinance shall be interpreted to relieve any individual from compliance with all other ordinances, resolutions, laws, and regulations of the Township.

13. Severability.

The provisions of this ordinance are severable, and if any section, sentence, clause, part, or provision hereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, or parts of this Ordinance. It is here by declared to be the intent of the Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional sections, sentence, clause, part, or provisions had not been included herein.

§ 27-1102 **Definitions.**

[Ord. No. 1049, 11/18/2019]

Unless a contrary intention clearly appears, the following words and phrases shall have a meaning given in this section. All words and terms not defined herein shall be used with a meaning of standard usage as defined in Merriam Webster's Collegiate Dictionary, Eleventh Edition. Definitions found in the Subdivision and Land Development Ordinance (Chapter 22) shall be applicable to this chapter.

CABLE FACILITY

Buildings, or other structure and equipment used by the owner or operator of a cable television system to provide service. As used in this definition, the term "cable system" shall have the meaning given to it in section 602(6) of the Cable Communications Policy Act of 1984 (Public Law 98□549, 47 U.S.C. §522(7)).

CO-LOCATION COLLOCATION OR COLLOCATE

The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers, or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunications facilities if approved by the Township. The term includes the placement, replacement, or modification of accessory equipment within a previously approved communications facility building. ~~To install, mount, maintain, modify, or replace wireless telecommunications facilities on an existing utility pole or other wireless support structure, and equipment within a previously approved communications facility building.~~

COMMUNICATIONS-ANTENNA

Any structure or device used for the purpose of collecting or transmitting electromagnetic waves including, but not limited to, directional antennas such as panels, microwave dishes, satellite dishes and omnidirectional antennas such as whip antennas. Communications antennas shall not include tower-based wireless communications facilities as defined below. Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services pursuant to Federal Communications Commission authorization, for the provisions of wireless service and any commingled services. Not included are antennas and supportive structures on residential dwellings for private noncommercial amateur purposes including, but not limited to, ham radios and citizen band radios that are regulated by the residential district sections of this chapter.

COMMUNICATIONS SERVICE PROVIDER

Any of the following: (1) A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. §522(5)). (2) A provider of information services as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. §153(24)). (3) A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. §153(51)). (4) A wireless provider.

HISTORIC DISTRICT

A site that is within a historic district created pursuant to the act of June 13, 1961 (P.L.282, No. 167), entitled "An act authorizing counties, cities, Township, incorporated towns and Townships to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts."

MUNICIPAL POLE

A utility pole owned, managed, or operated by or on behalf of the Township of Ferguson.

NON-TOWER-BASED WIRELESS COMMUNICATIONS FACILITY

All non-tower-based wireless communications facilities including, but not limited to, data collection units, communications antenna and related equipment. Non-tower-based WCF shall not include support structures for communications antenna and related equipment. Not included are towers and supporting structures on residential dwellings for private noncommercial amateur purposes including, but not limited to, ham radios and citizen band radios that are regulated by the residential district sections of this chapter. Wireless communications facilities collocated on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.

PUBLIC UTILITY FACILITY

For the purposes of this chapter, electric substations, automatic telephone exchanges, microrelay stations and the like (but excluding public sewer and water facilities and radio and television transmitters and towers) and any other public utility corporation when exempted from the provisions of this chapter by

state law: Buildings, other structures, and equipment owned or operated by public utility, as defined in 66 Pa. C.S. §102 (relating to definitions), to provide service.

RIGHT-OF-WAY

A corridor of land set aside for use, in whole or in part, by a street or other public purpose. The area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property. The term does not include a federal interstate highway.

SMALL WIRELESS FACILITY OR SWF

The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications: (1) The structure on which antenna facilities are mounted— (i) is 50 feet or less in height, or (ii) is no more than 10 percent taller than other adjacent structures, or (iii) is not extended to a height more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and (2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and (3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume. (4) The facilities do not require antenna structure registration under 47 CFR Part 17; (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and (6) The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

WIRELESS COMMUNICATION FACILITY

- (1) Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following: (i) Equipment associated with wireless services; (ii) Radio transceivers, antennas, coaxial or fiber optic cables, regular and backup power supplies or comparable equipment, regardless of technological configuration.
- (2) The term includes a small wireless facility.
- (3) The term does not include any of the following: (i) The structure or improvements on, under or within which the equipment is collocated. (ii) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna.

§ 27-205.1 - District - Rural Agriculture (RA)

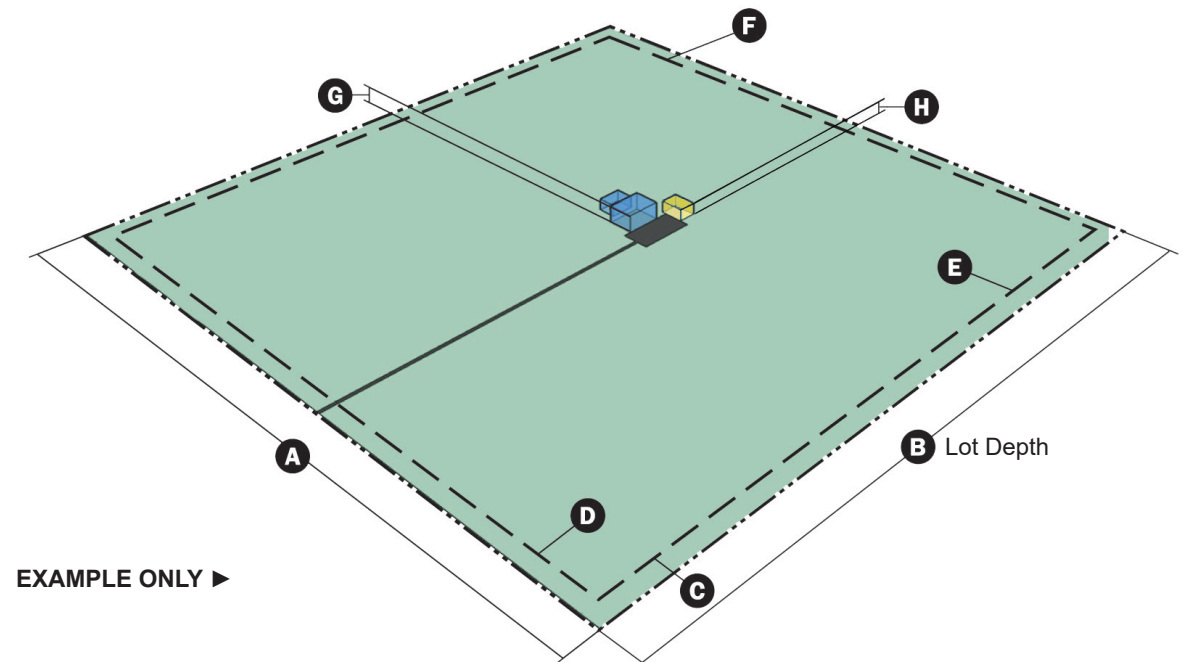
AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Agriculture	P
1	Agriculture Related Production	P
1	Bird and Wildlife Sanctuaries/Fish Hatcheries	P
1	Commercial Hunting Preserves	P
1	Communication Facilities	C
1	Communication Towers	C
1	Conservation Areas	P
1	Equestrian Facility (50 acres or greater)	P
1	Forestry	P
1	Landscape and Garden Center – Non-Retail (50 acres or greater)	P
1	Cemeteries	P
1	Cideries	P
1	Community Gardens	P
1	Country Club	C
1	Equestrian Facility	P
1	Essential Services – Type 1	P
1	Golf Course	C
1	Landscape and Garden Center – Retail	P
1	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
1	Park and Outdoor Recreational Facilities, Community, Public	P
1	Park and Outdoor Recreational Facilities, Regional, Public	P
1	Places of Assembly, Community	P
1	Places of Assembly, Regional	C
1	Single-Family Detached Dwelling on Non-Subdivided Lot – see Baseline Example Scenario and Example Scenario D	P
1	Solar Energy Systems (PSES)	P
1	Storage of Land Clearing Material	C
1	Water Production Facilities	P
1	Wind Energy Systems	P
2	Emergency Services	P
2	Farm Cafés	C
2	Farm Markets	C
2	Kennels	P
2	Pet Care Services Facility	C
2	Single-Family Detached Dwelling (one for every 50 acres of a primary use as determined and calculated before subdivision into smaller separate lots – see Example Scenario C)	P
2	Tasting Facilities	P
2	Veterinary Offices/Clinics	P

ACCESSORY USES		
Use	Area and Bulk Categories	
	1	2
Accessory Use Customarily Incidental to the Specified Principal Use	P	P
Agriculture/Environmental Education Program	P	
Agriculture	P	P
Agritourism	P	
Bed and Breakfast (1-3 rooms)	P	P
Bed and Breakfasts (10 rooms max.)	P	P
Building- and Ground-Mounted Solar and/or Wind Systems	P	P
Cideries	P	
Commercial Hunting Preserve	P	
Communication Facilities	C	C
Communication Towers	C	C
Community Garden	P	P
Community-Supported Agriculture Delivery Station	P	P
Composting – Small Scale	P	P
Day and Overnight Camping	P	
Dwelling Units	P	
Essential Services – Type 2	C	
Family Child-Care Homes	P	P
Farm Cafés	P	P
Farm Markets	P	P
Farm Stands by Road <2,000 SF	P	
Farm Stands by Road >2,000 SF	P	
Farm Structures, Traditional-Scale	P	
Farm Structures, Non-Traditional-Scale	P	
Food Trucks	P	P
General Storage to include Boat and RVs	P	P
Group Child-Care Homes	P	P
Home-Based Business, No-Impact (including Farm-Based Business, No Impact)	P	P
Home Occupation – Type 1	P	P
Home Occupation – Type 2	P	P
Horse Riding Stables/Riding Academies	P	
Incinerators, agricultural	P	
Kennels	C	
Pet Care Services Facility	P	P
Retail Establishments, Agriculture-Supported	P	
Retail Establishments, Value-Added Agriculture	P	
Non-Commercial Keeping of Livestock	P	
Short-Term Rentals	P	P
Silos	P	P
Sugar Shacks for Processing Sap from Trees on Different Lot	P	
Sugar Shacks for Processing Sap from Trees on Lot	P	P
Tasting Facilities	P	P
Usual Farm Structures, including Barns, Greenhouses, and Single- and Two-Family Dwellings not to Exceed Three Dwelling Units on a Lot – see Example Scenarios A, B, and E	P	
Veterinary Offices/Clinics	P	P
Welding Shops, Small Engine Repair	P	
Wind Energy Systems	C	C
Wineries/Tasting Facilities	P	

DIMENSIONS			AREA AND BULK CATEGORIES		
			1	2	
Minimum	Lot Size	C	50 ac	1 ac min. 2 ac max.	
		A	at Building Setback Line	60 ft	60 ft
	at Street Line		60 ft	60 ft	
	Setback	D	Front Yard, for Principal Use on Local/Collector Street	50 ft	20 ft
			Front Yard, for Principal Use on Arterial Street	50 ft	50 ft
		E	Side Yard, for Principal Use	50 ft	30 ft
F			Rear Yard, for Principal Use	50 ft	50 ft
Maximum	Height	G	Principal Structure	50 ft	50 ft
		H	Accessory Structure	60 ft	40 ft
Coverage	Building		n/a	30%	
		Impervious Surface	10%	50%	

AREA AND BULK CATEGORIES:

- 1 – usual farm structures and single- and two-family dwellings not to exceed three dwelling units on a lot
- 2 – other



EXAMPLE ONLY ▶

§ 27-205.2 - District - Rural Residential (RR)

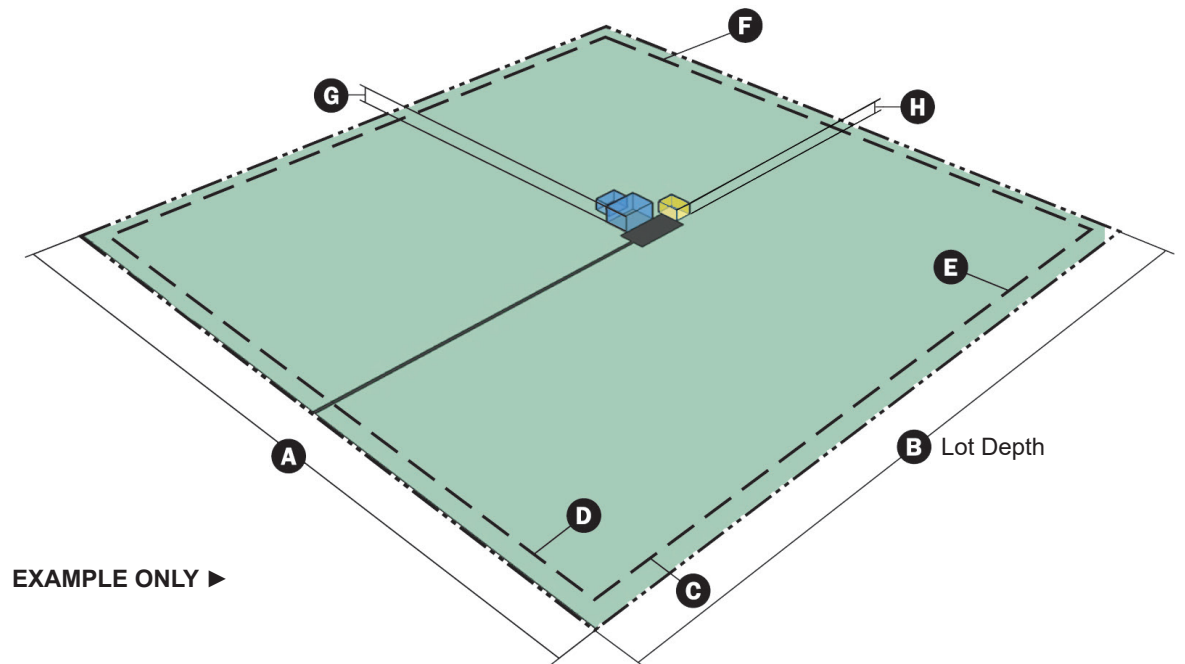
AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Agriculture	P
1	Agriculture Related Production	C
1	Bird and Wildlife Sanctuaries/Fish Hatcheries	P
1	Cideries/Wineries/Tasting Facilities	P
1	Commercial Hunting Preserves	C
1	Conservation Areas	P
1	Equestrian Facility (50 acres or greater)	P
1	Forestry	P
1	Group Homes	P
1	Park and Outdoor Recreational Facilities, Regional, Public	P
1	Places of Assembly, Regional	C
1	Single-Family Detached Dwellings	P
2	Community Gardens	P
2	Emergency Services	P
2	Essential Services – Type 1	P
2	Farm Cafés	C
2	Farm Markets	C
2	Landscape and Garden Center- Retail	P
2	Landscape and Garden Center- Non Retail	C
2	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
2	Park and Outdoor Recreational Facilities, Community, Public	P
2	Personal Care Homes, Large	P
2	Pet Care Services Facility	C
2	Places of Assembly, Community	P
2	Solar Energy Systems (PSES)	C
2	Veterinary Offices/Clinics	P
2	Water Production Facilities	C
3	Single-Family Detached Dwellings	P
3	Seasonal Dwellings	P
3	Personal Care Homes, Small	P
4	Communication Facilities	C
4	Communication Towers	C
4	Wind Energy Systems	C
5	Mining and Quarrying	C

ACCESSORY USES				
Use	Area and Bulk Categories			
	1	2	3	4
Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P
Agriculture/Environmental Education Program	P	P		P
Agriculture	P	P	C	P
Agritourism	P	P		P
Bed and Breakfasts (10 rooms max.)	P	P	P	
Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P
Cemeteries	P	P		
Cideries/Wineries/Tasting Facilities	P			
Commercial Hunting Preserve	C			
Community Garden	P	P	P	P
Community-Supported Agriculture Delivery Station	P	P	P	
Composting – Small Scale	P	P		P
Day and Overnight Camping	P	P		
Dwelling Unit	P			
Essential Services – Type 2	C	C		C
Family Child-Care Homes	P	P	P	
Farm Cafés	P	P		
Farm Markets	C	C		
Farm Stands by Road <2,000 SF	P	P	C	
Farm Stands by Road >2,000 SF	P	P	P	
Farm Structures, Traditional-Scale	P	P		
Farm Structures, Non-Traditional-Scale	C	C		
Food Trucks	P	P	P	
General Storage to include Boat and RVs	P	P		
Group Child-Care Homes	P	P	P	
Home-Based Business, No-Impact (including Farm-Based Business, No Impact)	P	P	P	
Home Occupation – Type 1	P	P	P	
Home Occupation – Type 2	P	P	P	
Horse Riding Stables/Riding Academies	P	P	P	
Kennel	C			
Non-Commercial Keeping of Livestock	P	P	P	P
Retail Establishments, Agriculture-Supported	P	P		
Retail Establishments, Value-Added Agriculture	P	P		
Personal Care Homes, Small			P	
Seasonal Dwellings	P	P	P	
Short-Term Rentals	P		P	
Silos	P	P		P
Sugar Shacks for Processing Sap from Trees on Different Lot	P	P		
Sugar Shacks for Processing Sap from Trees on Lot	P	P		
Two-Family Dwellings			P	
Welding Shops, Small Engine Repair	P	P		

DIMENSIONS		AREA AND BULK CATEGORIES						
		1	2	3	4	5		
Minimum	Lot Size	C	10 ac	3 ac	1 ac	n/a	n/a	
		A	at Building Setback Line	150 ft	150 ft	150 ft	n/a	n/a
	at Street Line		150 ft	150 ft	100 ft	n/a	n/a	
	Setback	D	Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	20 ft	500 ft	n/a
			Front Yard, for Principal Use on Arterial Street	50 ft	50 ft	50 ft	500 ft	n/a
		E	Side Yard, for Principal Use	50 ft	30 ft	30 ft	500 ft	n/a
F		Rear Yard, for Principal Use	75 ft	75 ft	30 ft	500 ft	n/a	
Maximum	Height	G	Principal Structure	50 ft	50 ft	50 ft	200 ft	n/a
		H	Accessory Structure	60 ft	40 ft	40 ft	20 ft	n/a
	Coverage		Building	n/a	30%	30%	n/a	n/a
		Impervious Surface	5%	30%	30%	n/a	n/a	

AREA AND BULK CATEGORIES:

- 1 – agricultural and conservation activities
- 2 – non-residential uses
- 3 – dwellings
- 4 – utility and communication facilities



EXAMPLE ONLY ▶

§ 27-205.3 - District - Agricultural Research (AR)

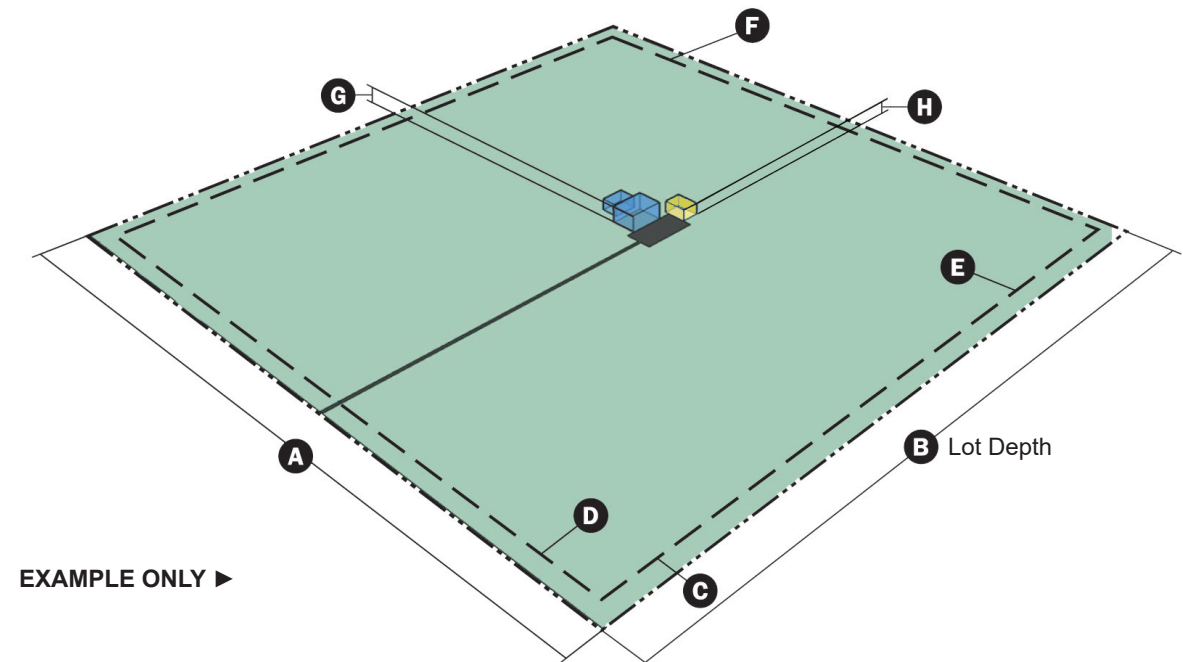
AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Administrative Office Buildings (associated with Advanced Agricultural Research)	P
1	Advanced Agricultural Research	P
1	Agriculture	P
1	Agriculture/Environmental Education Program	P
1	Any Use Performed by the State Game Commission	P
1	Bird and Wildlife Sanctuaries/Fish Hatcheries	P
1	Exhibit Halls and Museums	P
1	Forestry	P
1	General Natural Resource Research	P
1	General Weather, Radio and Satellite Research	P
1	Nature Education Centers	P
1	Recreation Facilities for Employees, Faculty & Students	P
1	Storage of Land Clearing Material	C
2	Farm Markets	C
2	Tasting Facilities	P
3	Archery and Shooting Ranges, Indoor	P
3	Community Gardens	P
3	Emergency Services (Ambulances, Fire, Police)	P
3	Essential Services – Type 1	C
3	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
3	Park and Outdoor Recreational Facilities, Community, Public	P
3	Park and Outdoor Recreational Facilities, Regional, Public	P
3	Places of Assembly, Neighborhood	P
3	Places of Assembly, Community	P
3	Places of Assembly, Regional	P
3	Solar Energy Systems (PSES)	C
4	Communication Facilities	C
4	Communications Towers	C
4	Wind Energy Systems	C

ACCESSORY USES				
Use	Area and Bulk Categories			
	1	2	3	4
Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P
Agriculture/Environmental Education Program	P	P	P	
Agritourism	P	P	P	
Agriculture	P	P	P	
Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P
Community Gardens	P	P	P	P
Composting – Small Scale	P	P	P	P
Day and Overnight Camping	P		P	
General Storage to include Boat and RVs	P			
Farm Structures, Traditional-Scale	P	P	P	P
Farm Structures, Non-Traditional-Scale	P	P	P	P
Food Trucks	P	P	P	
Incinerators	P			
Offices, Laboratories, Work Areas Related to Administrative/Research Activities	P	P		
Silos	P	P		
Temporary Facilities Related to Advanced Agricultural Research	P	P		
Welding Shops, Small Engine Repair	P			

DIMENSIONS		AREA AND BULK CATEGORIES					
		1	2	3	4	5	
Minimum	Lot Size	C Lot Size	10 ac	2 ac	5 ac	n/a	n/a
		A at Building Setback Line	300 ft	150 ft	150 ft	150 ft	n/a
	A at Street Line		300 ft	150 ft	150 ft	150 ft	n/a
	Setback	D Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	50 ft	500 ft	n/a
			D Front Yard, for Principal Use on Arterial Street	50 ft	50 ft	50 ft	500 ft
		E Side Yard, for Principal Use	100 ft	100 ft	100 ft	500 ft	n/a
F Rear Yard, for Principal Use			75 ft	75 ft	75 ft	500 ft	n/a
Maximum	Height	G Principal Structure	40 ft	40 ft	40 ft	200 ft	n/a
		H Accessory Structure	40 ft	40 ft	60 ft	20 ft	n/a
	Coverage	Building	10%	30%	n/a	n/a	n/a
Impervious Surface		10%	50%	10%	n/a	n/a	

AREA AND BULK CATEGORIES:

- 1 – agricultural, conservation, research, and institutional uses
- 2 – agriculture-related businesses
- 3 – non-agricultural/non-residential/other uses
- 4 – utility and communication facilities



§ 27-205.4 - District - Forest/Game Lands (FG)

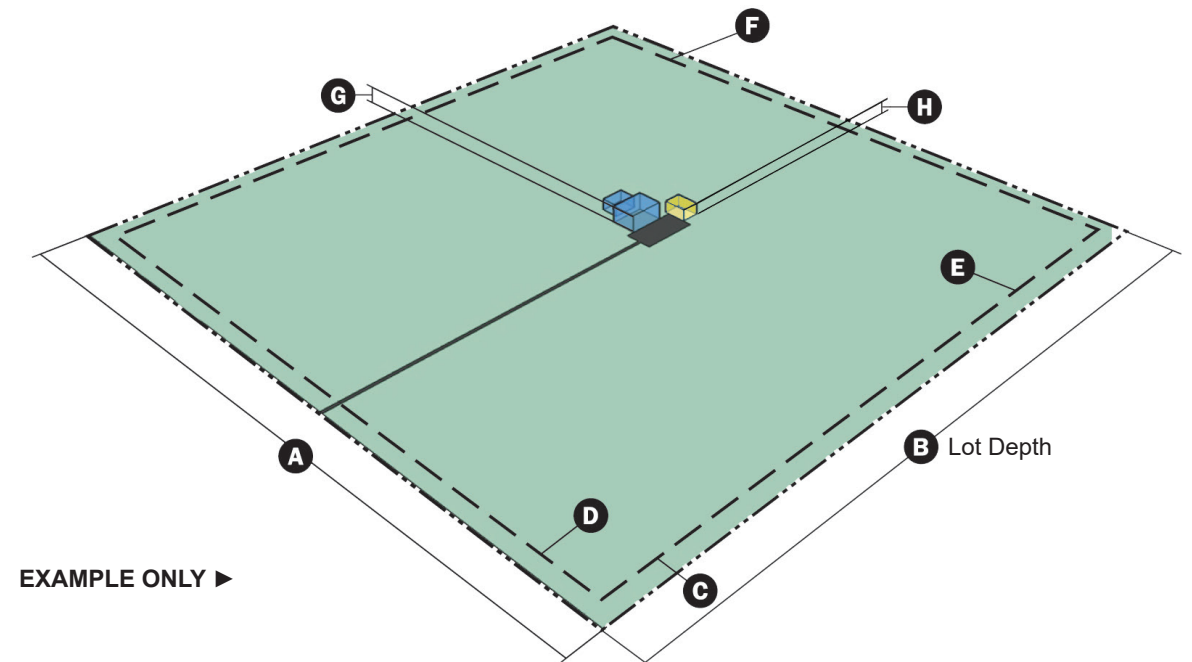
AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Any Use Owned or Managed by the Pennsylvania Department of Conservation and Natural Resources (PA DCNR) or the State Game Commission	P
1	Bird and Wildlife Sanctuaries/Fish Hatcheries	P
1	Forestry	P
2	Archery and Shooting Ranges, Indoor/Outdoor	P
2	Camping Grounds	C
2	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
2	Park and Outdoor Recreational Facilities, Community, Public	P
2	Park and Outdoor Recreational Facilities, Regional, Public	P
2	Park and Outdoor Recreational Facilities, Private	C
2	Recreation Facilities for Employees, Faculty & Students	P
2	Seasonal Dwellings	P
3	Commercial Hunting Preserves	P
3	Community Gardens	P
3	Conservation Areas	P
3	General Weather, Radio and Satellite Research	P
3	Nature Education Centers	P
4	Communication Facilities	C
4	Communications Towers	C
4	Essential Services – Type 1	P

ACCESSORY USES				
Use	Area and Bulk Categories			
	1	2	3	4
Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P
Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P
Community Garden	P	P	P	P
Composting – small scale	P	P	P	P
Food Trucks	P	P	P	
Day and Overnight Camping	P	P		
Incinerators	C			

DIMENSIONS		AREA AND BULK CATEGORIES					
		1	2	3	4	5	
Minimum	Lot Size	25 ac	10 ac	1 ac	n/a	n/a	
	Lot Width	at Building Setback Line	300 ft	150 ft	150 ft	150 ft	n/a
		at Street Line	300 ft	150 ft	150 ft	150 ft	n/a
	Setback	D Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	50 ft	500 ft	n/a
		D Front Yard, for Principal Use on Arterial Street	50 ft	50 ft	50 ft	500 ft	n/a
		E Side Yard, for Principal Use	100 ft	100 ft	50 ft	500 ft	n/a
F Rear Yard, for Principal Use		75 ft	75 ft	50 ft	500 ft	n/a	
Maximum	Height	G Principal Structure	40 ft	40 ft	40 ft	200 ft	n/a
		H Accessory Structure	40 ft	40 ft	40 ft	40 ft	n/a
	Coverage	Building	n/a	5%	15%	n/a	n/a
Impervious Surface		5%	10%	25%	n/a	n/a	

AREA AND BULK CATEGORIES:

- 1 – agricultural and conservation activities
- 2 – recreational uses
- 3 – research and institutional uses
- 4 – utility and communication facilities



§ 27-205.13 - District - General Commercial (C)

AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Forestry	P
1	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
1	Park and Outdoor Recreational Facilities, Community, Public	P
1	Park and Outdoor Recreational Facilities, Regional, Public	P
1	Sport and Field Complexes	P
2	Group Homes	P
2	Personal Care Homes, Small	P
3	Automobile Service Stations and Garages	P
3	Banks and Financial Establishments	P
3	Business, Professional and Financial Offices	P
3	Car Washes	P
3	Child/Day Care Centers	P
3	Cideries	P
3	Cigar, Hookah, and/or Vapor Lounge	C
3	Clinics and Medical and Dental Offices	P
3	Convenience Food Stores	P
3	Eating and Drinking Establishments, Sit-Down	P
3	Eating and Drinking Establishments, Takeout	P
3	Essential Services	P
3	Food Catering	P
3	Health and Athletic Clubs	P
3	Laundromats	P
3	Medical Marijuana Dispensary	P
3	Mortuaries	P
3	Personal Service Establishments	P
3	Pet Care Services Facility	C
3	Pet Stores	P
3	Printing Establishments	P
3	Retail Establishments, General	P
3	Schools, Commercial	P
3	Studios for Instruction in Music, Performing Arts and Visual Media	P
3	Tasting Room	P
3	Treatment Centers	C
3	Tutoring and Study Centers	P
3	Veterinary Offices/Clinics	P
4	Adult Business Uses	C
4	Amusement Arcades	P
4	Bowling Alleys	P

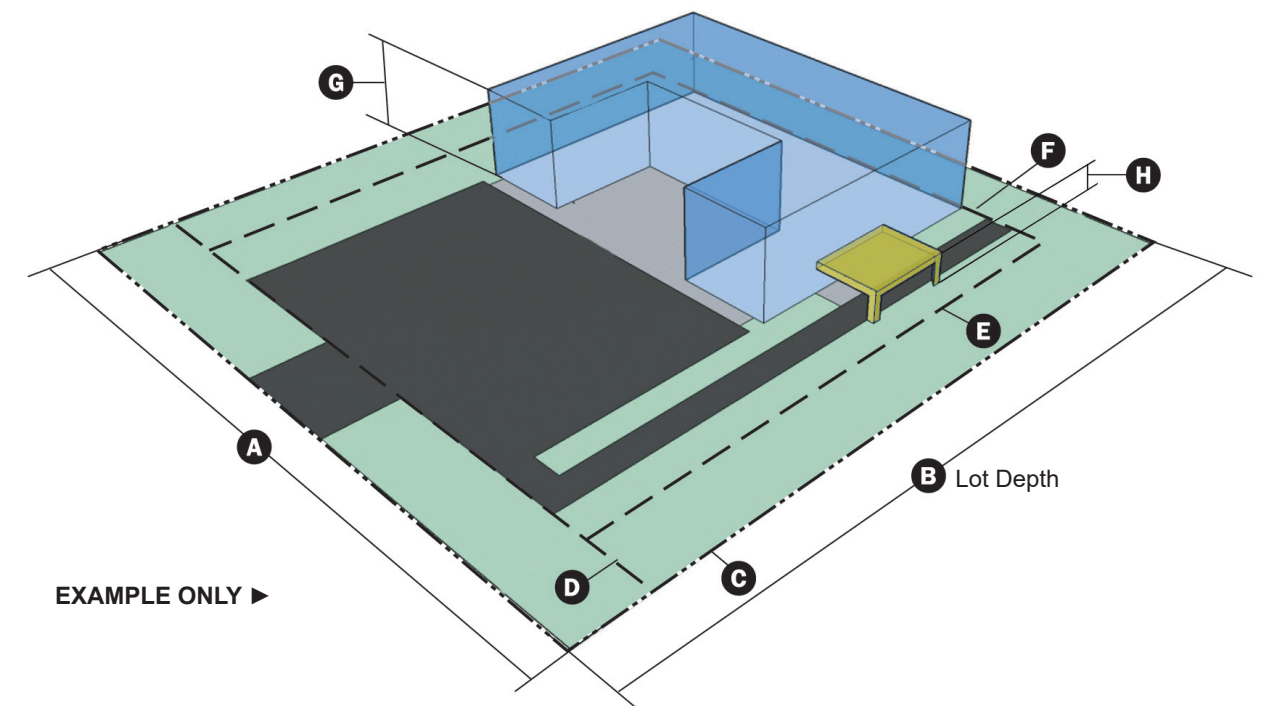
AREA AND BULK CATEGORY	PRINCIPAL USES, continued	
4	Exercise and Fitness Centers	P
4	Grocery Stores	P
4	Health and Athletic Clubs	P
4	Hotels and Motels	P
4	Micro-Distillery/Brewery (Beverage Production Facilities)	P
4	Miniature Golf	P
4	Public or Private Parking Garages	P
4	Self-Service Storage Facility	P
4	Theater	P
4	Wineries	P
4	All Other Commercial Uses	C
5	Bus Passenger Stations	P
5	Communication Facilities	C
5	Communication Towers	C
5	Emergency Services	P
5	Places of Assembly, Neighborhood	C
5	Places of Assembly, Community	C
5	Places of Assembly, Regional	C
5	Potable Water Pump Station Facilities	C
5	Radio and Television Studios, Excluding Towers in Excess of District Max. Height	P
5	Taxi and Limousine Services	P

ACCESSORY USES					
Use	Area and Bulk Categories				
	1	2	3	4	5
Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P	P
Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P	P
Food Truck	P	P	P	P	P
General Storage to include Boats and RVs					P

DIMENSIONS		AREA AND BULK CATEGORIES						
		1	2	3	4	5		
Minimum	Lot Size	C	1 acre	10,000 sf	5,000 sf	20,000 sf	n/a	
		A	at Building Setback Line	75 ft	50 ft	25 ft	100 ft	60 ft
	at Street Line		75 ft	50 ft	50 ft	100 ft	60 ft	
	Setback	D	Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	50 ft	50 ft	50 ft
			Front Yard, for Principal Use on Arterial Street	50 ft	50 ft	50 ft	50 ft	50 ft
		E	Side Yard, for Principal Use	30 ft	15 ft	15 ft	25 ft	75 ft
F		Rear Yard, for Principal Use	50 ft	50 ft	20 ft	50 ft	50 ft	
Maximum	Height	G	Principal Structure	40 ft	40 ft	40 ft	45 ft	40 ft
		H	Accessory Structure	40 ft	40 ft	40 ft	40 ft	40 ft
	Coverage	Building	n/a	45%	45%	45%	30%	
Impervious Surface		30%	80%	80%	80%	50%		

AREA AND BULK CATEGORIES:

- 1 – conservation and recreation activities
- 2 – residential uses
- 3 – local commercial uses
- 4 – regional commercial uses
- 5 – institutional, governmental, utility, and communication facilities



§ 27-205.14 - District - Industrial (I)

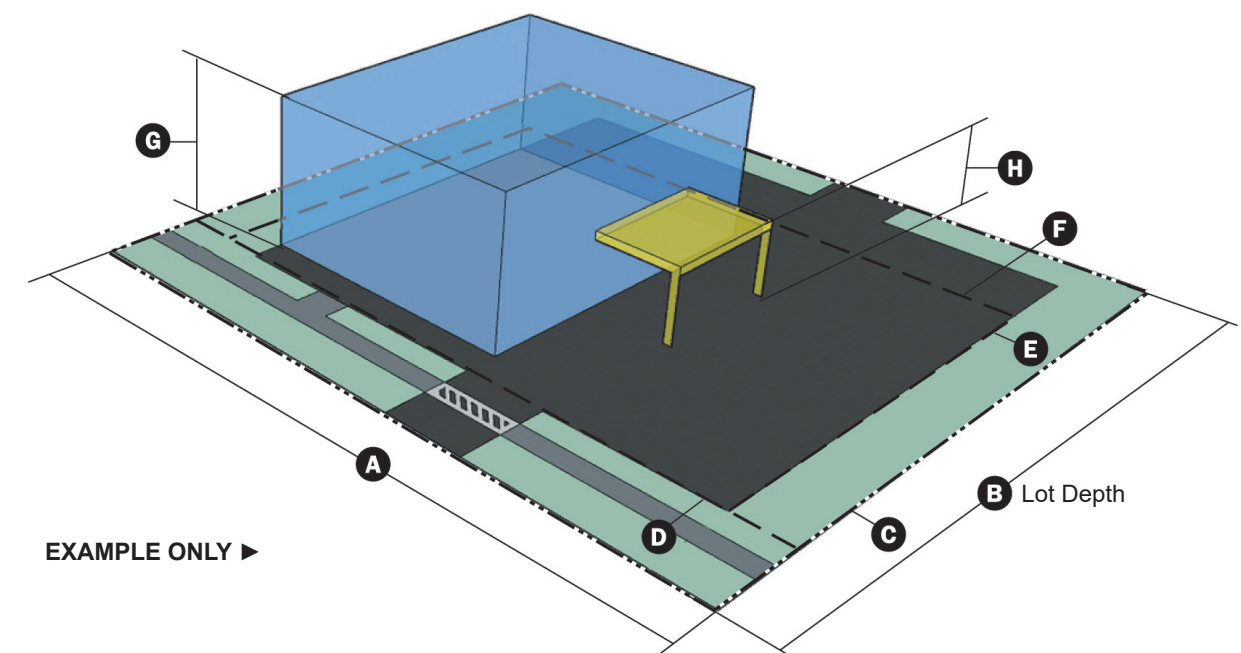
AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Forestry	P
1	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
1	Park and Outdoor Recreational Facilities, Community, Public	P
1	Park and Outdoor Recreational Facilities, Regional, Public	P
1	Recreation Facilities for Employees, Faculty & Students	P
2	Distribution Facilities	P
2	Landscape and Garden Center- Retail	P
2	Light Manufacturing, Assembly, Processing, Production and Fabrication	P
2	Moving and Storage Parcel Delivery and Express Transfer Stations	P
2	Research, Development, Engineering or Testing Laboratory	P
2	Storage of Passenger Vehicles and Light Trucks	C
2	Wholesale Distribution, Warehouse	P
3	Auto Wrecking, Junk, and Scrap Establishments	P
3	Freight and trucking terminals	P
3	Incinerators, non-agricultural	C
3	Manufacturing, Processing or Bulk Storage of Natural Gas	C
3	All Other Commercial and Industrial Uses	C
4	Emergency Services	P
4	Essential Services – Type 1	P
4	Potable Water Well Pump Station Facilities	C
4	Public or Private Parking Garages	P
5	Communication Facilities	C
5	Communication Towers	C

ACCESSORY USES				
Use	Area and Bulk Categories			
	1	2	3	4
Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P
Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P
General Storage to include Boats and RVs		P		
Food Truck	P	P	P	
Research, Development, Engineering or Testing Laboratory		P	P	P

DIMENSIONS		AREA AND BULK CATEGORIES					
		1	2	3	4	5	
Minimum	Lot Size	1 ac	1 ac	4 acs	n/a	n/a	
	Lot Width	at Building Setback Line	75 ft	100 ft	150 ft	60 ft	60 ft
		at Street Line	75 ft	100 ft	150 ft	60 ft	60 ft
	Setback	Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	50 ft	50 ft	500 ft
		Front Yard, for Principal Use on Arterial Street	50 ft	50 ft	50 ft	50 ft	500 ft
		Side Yard, for Principal Use	25 ft	25 ft	25 ft	75 ft	500 ft
Rear Yard, for Principal Use		50 ft	50 ft	50 ft	50 ft	500 ft	
Maximum	Height	Principal Structure	40 ft	45 ft	45 ft	200 ft	200 ft
		Accessory Structure	40 ft	40 ft	40 ft	40 ft	40 ft
	Coverage	Building	n/a	45%	45%	30%	30%
Impervious Surface		30%	75%	75%	60%	60%	

AREA AND BULK CATEGORIES:

- 1 – conservation and recreation activities
- 2 – light industrial uses
- 3 – other uses
- 4 – institutional, governmental, utility, and communication facilities



§ 27-205.15 - District - Light, Industry, Research & Development (IRD)

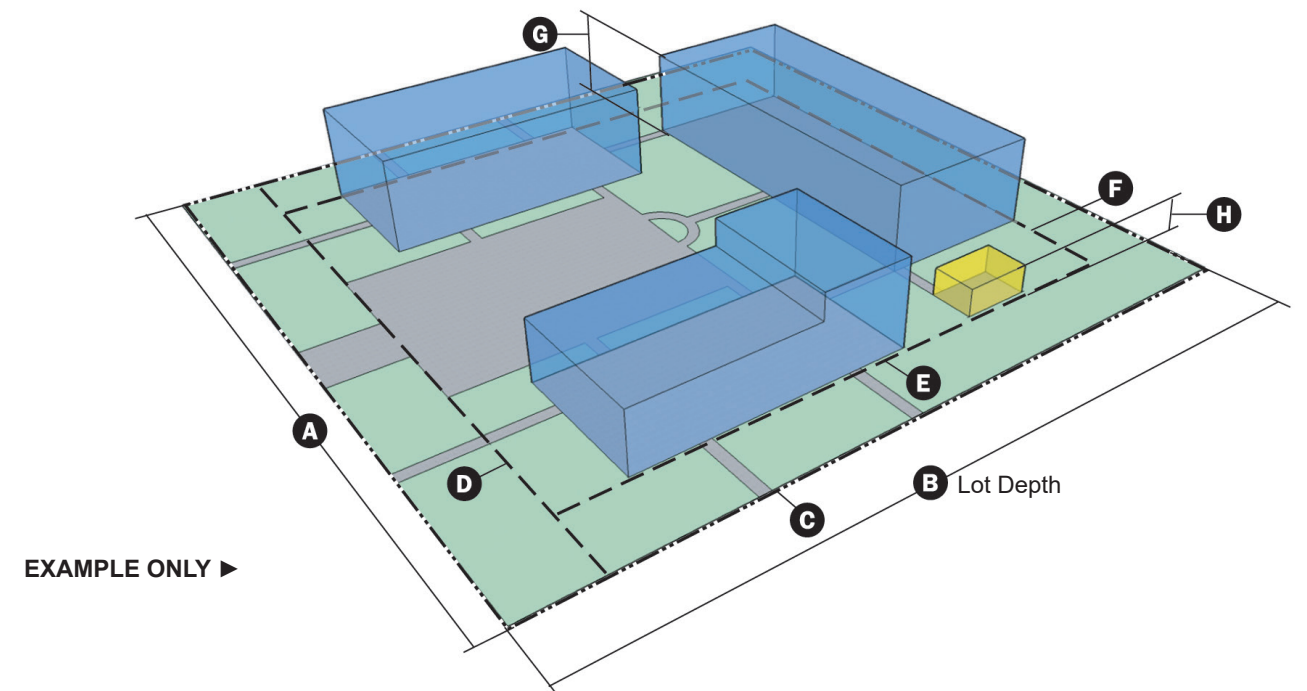
AREA AND BULK CATEGORY	PRINCIPAL USES	
1	Forestry	P
1	Park and Outdoor Recreational Facilities, Neighborhood, Public	P
1	Park and Outdoor Recreational Facilities, Community, Public	P
1	Park and Outdoor Recreational Facilities, Regional, Public	P
1	Recreation Facilities for Employees, Faculty & Students	P
2	Administrative Office Buildings (associated with the Uses in this Area and Bulk Category)	P
2	Food Catering	P
2	Micro-Distillery/Brewery (Beverage Production Facilities)	P
2	Light Manufacturing, Assembly, Processing, Production and Fabrication	P
2	Research, Development, Engineering or Testing Laboratory	P
2	Self-Service Storage Facility	P
2	Archival Libraries	P
3	Amusement Arcades	P
3	Archery and Shooting Ranges, Indoor	P
3	Bowling Alleys	P
3	Business, Professional and Financial Offices	P
3	Child/Day Care Centers	P
3	Clinics and Medical and Dental Offices	P
3	Eating and Drinking Establishments, Sit-Down	P
3	Eating and Drinking Establishments, Takeout	P
3	Health and Athletic Clubs	P
3	Pet Care Services Facility	C
3	Schools, Commercial	P
3	Sport and Field Complexes	P
3	Sporting and Entertainment Arenas and Stadiums	P
3	Studios for Instruction in Music, Performing Arts and Visual Media	P
3	Tutoring and Study Centers	P
4	Community Gardens	P
4	Emergency Services	P
4	Essential Services – Type 1	P
4	Potable Water Pump Station Facilities	C
4	Radio and Television Studios, Excluding Towers in Excess of District Max. Height	P
4	Telecommunications Switching Facility	P
5	Communication Facilities	C
5	Communication Towers	C

ACCESSORY USES				
Use	Area and Bulk Categories			
	1	2	3	4
Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P
Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P
Food Truck	P	P	P	P
General Storage to include Boat and RVs	P	P	P	P

DIMENSIONS		AREA AND BULK CATEGORIES					
		1	2	3	4	5	
Minimum	Lot Size	1 ac	20,000 sf	1 ac	n/a	n/a	
	Lot Width	at Building Setback Line	75 ft	100 ft	100 ft	60 ft	60 ft
		at Street Line	75 ft	100 ft	100 ft	60 ft	60 ft
	Setback	Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	50 ft	50 ft	500 ft
		Front Yard, for Principal Use on Arterial Street	50 ft	50 ft	50 ft	50 ft	500 ft
		Side Yard, for Principal Use	25 ft	25 ft	25 ft	50 ft	500 ft
Rear Yard, for Principal Use		50 ft	50 ft	50 ft	50 ft	500 ft	
Maximum	Height	Principal Structure	40 ft	45 ft	45 ft	200 ft	200 ft
		Accessory Structure	40 ft	40 ft	40 ft	40 ft	40 ft
	Coverage	Building	n/a	30%	30%	30%	30%
Impervious Surface		30%	60%	60%	60%	60%	

AREA AND BULK CATEGORIES:

- 1 – conservation and recreation activities
- 2 – light industrial uses
- 3 – other uses
- 4 – institutional, governmental, utility, and communication facilities





TOWNSHIP OF FERGUSON

3147 Research Drive • State College, Pennsylvania 16801
Telephone: 814-238-4651 • Fax: 814-238-3454
www.twp.ferguson.pa.us

TO: Planning Commission

FROM: Kristina Bassett, Community Planner

DATE: March 23, 2022

SUBJECT: Application for Consideration of a Modification/Waiver

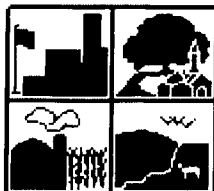
Tussey Tracks, LLC, owner of Centre Animal Veterinary Hospital, has requested a modification/waiver from Section 22-5A09 –Streetscape Design Standards. Located at 1518 West College Avenue, This plan is in the Terraced Streetscape Zoning District. Section 22-5A09 of the Ferguson Township Code of Ordinances requires a specific set of design standards for the streetscape.

Tussey Tracks LLC has submitted a Land Development Plan that proposes an expansion and improvements to their building to address the needs of the clients and ongoing improvements in animal care. The business is a small, locally-owned business and has been in business in this location since 1987. Sidewalks were installed along West College Avenue and Owens Drive as part of the original land development project in 1987.

The streetscape design requirements present challenges to the owner. The first is that West College Avenue is a State Road. Improvements within a PennDOT right-of-way are required to be designed, reviewed and approved through the PennDOT permitting process, adding significant cost to this small business operating on a small budget. In addition, PennDOT may have additional improvement requirements.

Staff has reviewed the application and isn't recommending any conditions be included with the request.

Staff Recommendation: That the Planning Commission recommend to the Board of Supervisors approval of the Application for Consideration of a Modification from §22-5A09.



APPLICATION FOR CONSIDERATION OF A MODIFICATION
Ferguson Township, Centre County

Submittal Date: _____

A fee of \$50.00 is required at the time of submitting this application.

The undersigned hereby applies for approval of a modification/waiver, submitted herewith and described below:

Applicant Information

Tussey Tracks, LLC

Name

1518 West College Avenue

State College, PA

16801

Street Address

City

Zip

814-238-5100

Phone Number

Property/Plan Information

Preliminary Land Development Plan for Centre Animal Hospital

Plan Name

September 17, 2021

Plan Number

Plan Date

1518 West College Avenue

24-19-12

Project Location

Parcel Number

Tussey Tracks, LLC (Debra J. Smart, DVM & Renee A. Calvert, DVM)

Name of Property Owner(s)

1518 West College Avenue

State College, PA

16801

Street Address

City

Zip

Application Type:

Subdivision

Terraced Streetscape District (TSD)

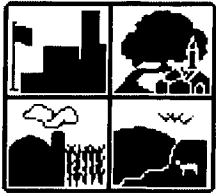
Land Development

Traditional Town Development (TSD) District

Modification/Waiver Request Information

Specific Section(s) of the Subdivision and Land Development Ordinance or Design Standards for which a Modification/Waiver is requested:

Chapter 22, Part 5, Section 22-5A09 Streetscape Design Standards



APPLICATION FOR CONSIDERATION OF A MODIFICATION

Ferguson Township, Centre County

State any proposed alternative(s) to the requirement:

Please state in full, the grounds and facts of the unreasonableness or hardship the Ferguson Township Subdivision and Land Development Ordinance has placed on the property.

Centre Animal Hospital is privately owned by two local Veterinarians and has been in business at the site since construction in 1987. The proposed expansion and improvements project is being undertaken to address the needs of the clients of the business and the continuing developments in animal care. The business is a small business within the community and as such maintains a small operating budget. Currently there is a sidewalk along the frontage of the property on West College Avenue and also along Owens Drive. These walkways were installed as part of the original development project in 1987 and provide pedestrian accessibility to and from the adjacent properties.

In reviewing the streetscape design requirements the challenges in implementation of the elements is multi leveled. The first is that West College Avenue is a State Road. Improvements within the (PLEASE REFER TO NEXT PAGE FOR CONTINUATION)

*If necessary, please continue with your hardship specification on another page.

The undersigned hereby represents that, to the best of their knowledge and belief, all information listed above is true, correct, and complete.

Debra J. Smart
Signature

2/11/2022
Date

For Office Use Only:

Date Received: _____ By: _____

Date Paid: _____ Check No.: _____ Amount: _____

Advertisement Dates: _____ Planning Commission Review Date: _____

Board of Supervisors Meeting Date: _____

CONTINUATION:

PennDOT right of way would need to be designed, reviewed, and approved through the rigorous PennDOT permitting process. This adds significant cost to the small business project as well as significant time for design, review and approval. PennDOT, in these instances, sometimes requires additional improvements beyond the municipal improvements when a project is proposed to extend into the PennDOT right of way. Additional design and construction costs increase with the additional requirements. The potential for additional improvements is unforeseeable and revealed only after a submission to and subsequent review by PennDOT.

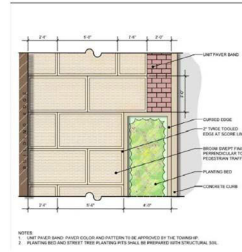
An exciting anticipated improvement to the building will be the vast transformation of the exterior facades of the building. The existing building will be unrecognizable after completion of the project. The existing building materials will be replaced with a combination of earthy tones of stone veneer and siding material, varied sized glazing, and diverse roof lines. The view of the building from the West College Corridor will be exciting, very inviting and will add transformation to the frontage of the property from what it is today. Masking the view with street trees and improvements will decrease from the attractiveness of the building as well as add a level of complexity and disarray to the visual frontage of the property.

recommended densities, when enhanced by proper attention to articulation and detail and integrated with the planned streetscape design, will lend themselves to a more urban and vibrant neighborhood along the West College Avenue corridor.

§ 22-5A09. Streetscape Design Standards. [Ord. No. 1050, 11/18/2019]

1. The West College Avenue Corridor is intended to be the center and focal point of the district. The corridor is conducive to density and mixed-use development and is intended to be accompanied by streetscape treatment that is pedestrian friendly and consistent with the following design requirements or any officially adopted streetscape plan:
 - A. Sidewalks shall be a minimum of 12 feet in depth from back of curb to building face along West College Avenue.
 - (1) Sidewalks shall be scored in patterns that modulate the scale of the sidewalk and may include a variety of dimensional sizes including square, rectangular or diagonal patterns at the applicant's discretion and in keeping with the intent of the design standards.
 - (2) All score lines shall utilize a twice-tooled troweled edge on all pattern joints, including construction and expansion joints. In the case of stamped or colored concrete, this requirement may be modified at the discretion of the Board of Supervisors.
 - (3) All curbs, sidewalks, handicapped ramps and crosswalks shall be designed and constructed in accordance with the latest official version of the Americans with Disabilities Act.¹⁹
 - (4) All proposed sidewalks, curbs, crosswalks shall be designed and constructed in accordance with the provisions and specifications established by the Township and specified herein or in an officially adopted streetscape plan.
 - B. A two-foot-wide minimum paver accent band shall be installed along the back of the curblines along all sidewalks on West College Avenue. The pavers shall be standard four inches by eight inches brick size, red color. Pavers may be traditional clay brick or pressed concrete. Color and pattern of the paver field may include various size pavers and colors at the discretion of the applicant, subject to approval by the Board of Supervisors.
 - (1) Decorative brick, concrete pavers or pavement treatments shall be considered as an integrated feature to properties on gateway corners in the Township, the main entrance of buildings, public plazas, pedestrian access areas and public roads as noted.
 - (2) Street signs, regulatory signs, wayfinding signs, utility poles, streetlighting, utility appurtenances and traffic signal poles are to be placed within the paver accent band unless otherwise required by ordinance or upon review by the Township Engineer.

19. Editor's Note: See 42 U.S.C.A. § 12101.



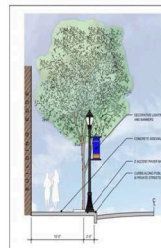
- C. Four-foot-wide by twenty-foot-long minimum, planter beds shall be incorporated parallel to the curbline adjacent to West College Avenue. Construction of these beds to function as rain gardens, in accordance with Township construction standards, is encouraged. Measurement shall be from outside edge to outside edge of planting area.
- (1) Planters shall be spaced a minimum of 40 feet on center for the width of the proposed lot or length of the unit block where the site is located. The spacing and location may be adjusted dependent on site conditions, clear sight triangles and at the discretion of the Township Engineer and Board of Supervisors.
 - (2) Planters may intersect the two-foot side accent paver bands as noted above.



- (3) Planters shall be curbed with brick or pavers to match adjacent paver accent band or other materials consistent with the architecture of the proposed project. In no case shall the width and height of the raised curb exceed six inches in either direction. Planter edge may include a decorative metal fencing garden edge to accent and highlight the planting area. The fencing may be part of the raised curb or independent thereof. In no case shall the fencing exceed 24 inches in height.
- (4) Planters shall be backfilled with CU-Structural Soil[®] or approved equal for the full length and width of the planter to a depth of three feet where feasible or otherwise directed by the Township Engineer.
- (5) Planter areas shall be planted with a perennial, semi- or evergreen ground cover as a year-round base planting. Planters shall also incorporate seasonal plantings to provide four season visual interest. The applicant shall provide a list of proposed seasonal plantings to be provided and maintained by the property owner and/or tenant. These may include but are not limited to tulips, impatiens, petunias, mums and ornamental kale. The use of ornamental grasses, perennials, and ornamental shrubs is also

encouraged.

- (6) The planting plan for the accent planting beds shall be prepared and sealed by a Pennsylvania registered landscape architect.
 - (7) Where feasible, applicants are encouraged to utilize and incorporate planter areas into the project's overall stormwater management strategy as bioretention/water quality filter areas. The use of planter areas as a stormwater best management practice (BMP) will be subject to review and approval by the Township Engineer and must be consistent with the Township's overall stormwater management plan and objectives for improving water quality and reducing runoff volumes.
- D. Pedestrian scale, period-style lighting standards shall be used along the West College Avenue street edge, immediately adjacent to the proposed project site. The horizontal spacing of the light fixtures shall be consistent with meeting required light levels established by Township ordinance.
- (1) Streetlights shall utilize decorative, fluted or tapered poles with decorative base covers to match the style of pole.
 - (2) Poles shall be cast iron, steel or aluminum, painted black.
 - (3) Poles shall be located within the proposed paver accent band.
 - (4) Streetlight lamps shall incorporate night sky friendly, energy efficient, full cut-off optics. The use of LED technology is encouraged.
 - (5) Poles along West College Avenue shall incorporate banner brackets for upper and lower banner arms, to hang one banner, perpendicular to the street edge.
 - (6) Poles along West College Avenue shall include provisions for two planter arms, one on each side of the pole, parallel to the street edge.
 - (7) Poles along West College Avenue shall include provisions for one exterior rated duplex electrical outlet located immediately below the point of attachment between luminaire and pole.



- E. To mitigate the negative impacts of heat island effects, a minimum of one street tree shall be planted in the center of each four-foot-by-twenty-foot accent planting bed. The selected species and sizing of tree shall be in accordance with Chapter 25, Trees. Shrub varieties shall be included in a landscaping and planting plan prepared and sealed by a Pennsylvania

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SUBDIVISION AND LAND DEVELOPMENT

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registered landscape architect and approved by the Township Tree Commission.

- F. Each project with frontage on West College Avenue shall include the provision of site furnishings consistent with the intended creation of an inviting, safe and enjoyable pedestrian experience. These furnishings may include benches, trash and recycling receptacles, bike racks, bus shelters, and individual freestanding planters.
- (1) Site furnishings shall be constructed of nonbiodegradable, vandal resistant materials such as cast iron, steel, aluminum, or recycled plastic components.
 - (2) Site furnishings shall be period style consistent with the overall character of the area or any officially adopted Streetscape Plan.
 - (3) Site furnishings shall be from a coordinated family of furnishings by the same manufacturer unless otherwise approved by the Township.
 - (4) Benches shall be a minimum of six feet in length and shall incorporate a center armrest.
 - (5) Trash receptacles shall be a minimum of thirty-two-gallon capacity and shall utilize the smallest possible semicovered top opening to prevent the deposition of large trash bags or household debris.
 - (6) Recycling receptacles shall be provided and incorporated consistent with Centre Region refuse and recycling requirements.
 - (7) Benches and receptacles shall be grouped together along the street edge but not within the required accent paver band. Where feasible, these groupings may occur between accent planting beds when two or more beds are included along the frontage of a project.
 - (8) Bus shelters may be incorporated subject to the review and approval of CATA. The style of shelter shall be consistent with the overall site furnishings palette.
2. Streets perpendicular to the West College Avenue Corridor will also provide for a variety of uses, but at a slightly reduced scale. The sidewalks and streetscape treatment along these streets will be correspondingly reduced in scale, with fixtures and landscape features more conducive to a side street location.

§ 22-5A10. Building Design and Facade Considerations. [Ord. No. 1050, 11/18/2019]

Issues of character, aesthetic contribution, scale, proportion and material quality shall all be evenly considered along with the traditional measures of zoning and code compliance when evaluating building design. To minimize subjectivity in the consideration of these elements, the following guidelines shall be considered.