

**CITY OF EASTON  
NORTHAMPTON COUNTY, PENNSYLVANIA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF EASTON, NORTHAMPTON COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF THE CITY OF EASTON; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF COMMUNICATIONS TOWERS AND COMMUNICATIONS ANTENNAS; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW THEREFORE**, be it, and it is hereby **ORDAINED** by the City Council of the City of Easton, Northampton County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

**SECTION I. §595-267 Purposes and Findings of Fact**

**A. Purposes and Findings of Fact.**

(1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of Communications Facilities in the City of Easton (referred to herein as the “City”). While the City recognizes the importance of Communications Facilities in providing high quality communications service to its residents and businesses, the City also recognizes that it has an obligation to promote public safety and to minimize the adverse visual effects of such facilities, especially in historic areas, through the standards set forth in the following provisions.

(2) By enacting these provisions, the City intends to:

- a. Accommodate the need for communications facilities while regulating their location and number so as to ensure the provision of necessary services;
- b. Provide for the managed development of communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both City residents and wireless carriers in accordance with federal and state laws and regulations;
- c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both communications towers and communications antennas in the City, including facilities both inside and outside the public rights-of-way;
- d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, and other communications facilities;
- e. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that competing providers of communications services co-locate their communications antennas and related equipment on existing towers or infrastructure;

- f. Protect and preserve historically significant structures and properties located in the City; and
- g. Promote the health, safety and welfare of the City's residents.

**SECTION II. §595-268 Repeal and Replacement of Certain Definitions**

- A. The definition of “Co-location” is hereby repealed and removed as definitions from Section 595-268 of the City of Easton Zoning Ordinance.

**SECTION III. Amendment to Section 595-268, Definitions, in Article XL of the Zoning Ordinance**

Chapter 595, Section 268, Definitions, of the City of Easton Zoning Code is hereby amended to include the following definitions:

1. *Applicant*—any entity or person that applies for a communications facility building permit, zoning approval and/or permission to use the public right-of-way, City-owned land, or other property.
2. *Co-location*— The mounting of one or more communications antennas on an existing communications tower, or on any existing structure or any structure that has been approved by the City to support at least one communications antenna.
3. *FCC*—Federal Communications Commission.
4. *Related Equipment or Base Station*— any structure or equipment at a fixed location, not including a tower, that enables FCC license communications between a user and a wireless network.
5. *Stealth Technology*—camouflaging methods applied to communications facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, alternative mounting structures, such as architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, flagpoles, and light poles.
6. *Substantially Change or Substantial Change* - A modification to an existing communications facility that changes the physical dimensions of a communications tower or base station if it meets any of the following criteria:
  - (a) For a communications tower outside the public rights-of-way:
    - (1) It increases the height of the facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed twenty (20) feet, whichever is greater;
    - (2) It protrudes from the edge of the communications facility by more than twenty (20) feet, or more than the width of the tower structures at the level of the appurtenance, whichever is greater.
  - (b) For a communications tower in the rights-of-way:
    - (1) It increases the height of the facility by more than ten percent (10%) or ten (10) feet, whichever is greater;
    - (2) It protrudes from the edge of the structure by more than six (6) feet;

- (3) It involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
  - (4) It entails any excavation of deployment outside the current site of the communications tower; or
  - (5) It does not comply with conditions associated with prior approval of construction or modification of the communications tower unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.
- 7. *TOWER, MONOPOLE* – A self-supporting telecommunications tower which consists of a single vertical pole, fixed into the ground and/or attached to a foundation.
  - 8. *WBCA* - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)
  - 9. *Wireless Support Structure*—a freestanding structure, such as a communications tower or any other support structure that could support the placement or installation of a wireless communications facility if approved by the City.

**SECTION IV: Repealer of Certain Communications Facility Regulations**

The terms, conditions, and provisions of Section 595-269 and Section 595-270 are hereby repealed in their entireties and removed from the City of Easton Zoning Code

**SECTION V: Adoption of New Communications Facilities Provisions**

The following terms, conditions and provisions are hereby adopted and incorporated into the City of Easton Zoning Code:

**§ 595-269 Requirements and Standards for Communications Antennas**

A. General and specific requirements for communications antennas. The following regulations shall apply to all communications antennas, except those operated by a federally licensed amateur radio operator:

- (1) Standard of care. All communications antennas shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the Pennsylvania Uniform Construction Code, American National Standards Institute (ANSI) Code, and National Electrical Code. Communications antennas shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the City.
- (2) Permitted in all zoning districts pursuant to regulations pursuant to parcel classification. Communications antennas are permitted pursuant to this zoning ordinance in all zoning districts throughout the City, so long as they comply with all of the terms and conditions of this Zoning Ordinance; however, communications equipment buildings shall not be located on land classified as Block Class A in the CH, SS or WW Districts, or within the FEMA 100-year-floodplain.
- (3) Historic areas.
  - a. To the extent permitted by state and federal law, no communications antenna may be located upon any property, or on a building or structure that is listed on

either the National or Pennsylvania Registers of Historic Places (either inside or outside the public rights-of-way), or that is deemed by the City to be of specific historical significance, unless such equipment is screened from view utilizing stealth technology.

- b. Downtown Local Historic District. Should the applicant demonstrate that the sole manner by which it can infill a gap in coverage or capacity in the Downtown Local Historic District is by the siting of a communications antenna in such District, it must prove that the addition of the proposed antenna to properties located in the Downtown Local Historic District, as approved by the Pennsylvania Historical Museums Commission, will not adversely affect any historic and/or culturally significant resources within the view shed of the proposed site. The applicant shall comply with historic and cultural resource guidelines for communications facilities as established by the Easton Historic District Commission.
- (4) Wind. Communications antennas structures shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended). Wind Load Calculations should be reviewed and verified by a professional engineer.
  - (5) Aviation safety. Communications antennas shall comply with all federal and state laws and regulations concerning aviation safety.
  - (6) Public safety communications and other communications services. Communications antennas shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
  - (7) Radio frequency emissions. A communications antenna shall not, by itself or in conjunction with other antennas and/or communications towers, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
  - (8) Removal. In the event that use of a communications antenna is discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned communications antennas, or portions of communications antennas, shall be removed as follows:
    - (1) All abandoned or unused communications antennas and related equipment shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the City.
    - (2) If the communications antenna or related equipment is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the City, the communications antenna and/or related equipment may be removed by the City. As security, the City reserves the right to the salvage

value of any removed Communications antenna and/or related equipment, if such communications antenna and/or related equipment are not removed by the owner within the specific timeframe enumerated in this Chapter.

(9) Indemnification. Each person that owns or operates a communications antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communications antenna. Each person that owns or operates a communications antenna shall defend any actions or proceedings against the City in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a communications antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification. The City of Easton Communication Facility Zoning Permit Application requires that the applicant execute an indemnification agreement with the City.

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

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

(11) Removal, Replacement and Modification.

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

B. Regulations for specific applications. The following regulations shall apply only to communications antennas or communications facilities that fall under the Pennsylvania Wireless Broadband Collocation Act and/or the mandatory-approval provisions of the FCC's October 2014 Report and Order, as amended:

(1) Permit required. Communications antenna applicants proposing changes to an existing communications tower, base pad, related equipment, or communications antenna that do

not substantially change the dimensions of the existing wireless support structure or otherwise fall under the WBCA, shall obtain a construction permit from the City. In order to be considered for such a permit, the applicant must submit a permit application to the City in accordance with applicable permit policies and procedures.

- (2) Timing of approval for applications that fall under the WBCA and/or FCC's October 2014 Report and Order, as amended. Within thirty (30) calendar days of the date that an application for a communications antenna is filed with the City, the City shall notify the applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the City shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision.
- (3) Permit fees. The City may assess appropriate and reasonable permit fees directly related to the City's actual costs in reviewing and processing the application for approval of a communications antenna or \$1,000, whichever is less.

C. Additional regulations for communications antennas that do not fall under the WBCA. In addition to the regulations enumerated in Section 595-269(A), the following regulations shall apply to Communications antennas that do not fall under the Pennsylvania Wireless Broadband Collocation Act or the mandatory-approval provisions of the FCC's October 2014 Order and Report, as amended:

- (1) Prohibited on certain structures. Communications antennas shall not be located on any single-family detached, single-family semidetached, single-family attached, two-family detached, two-family semidetached, two-family attached, multifamily or rooming house dwellings as defined in Section 595-36, Use definitions, of this chapter of the Code of the City of Easton.
- (2) Special exception approval required. Any applicant proposing the construction of a new communications antenna, or a material modification to an existing antenna, shall first obtain special exception authorization from the City. New constructions, modifications, and replacements that fall under the WBCA, or the applicable provisions of the FCC's October 2014 Report and Order, shall be not be subject to the special exception process. The special exception application, and accompanying documentation, shall demonstrate that the proposed facility complies with all applicable provisions in this Section of the City of Easton Zoning Ordinance.
- (3) Retention of experts. The City may hire any consultant(s) and/or expert(s) necessary to assist the City in reviewing and evaluating the application for approval of the communications antenna and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these Communications antenna provisions. The applicant and/or owner of the communications antenna shall reimburse the City for all costs of the City's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (4) Permit fees. The City may assess appropriate and reasonable permit fees directly related to the City's actual costs in reviewing and processing the application for approval of a communications antenna, as well as inspection, monitoring, and all other related costs.
- (5) Development regulations. Communications antennas shall be co-located on existing wireless support structures subject to the following conditions:

- a. The total height of any wireless support structure and mounted communications antenna shall not exceed twenty (20) feet above the maximum height permitted in the underlying zoning district.
  - b. In accordance with industry standards, all communications antenna applicants must submit documentation to the City justifying the total height of the communications antenna. Documentation shall be analyzed in the context of such justification on an individual basis.
  - c. If the applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district, and landscaping may be required to screen as much of the equipment building as possible at the sole discretion of the Zoning Officer. An evergreen screen shall surround the site and comply with the standards set forth in Section 166, Landscaping requirements, of this Chapter.
    - 1. Upon application for a communications antenna, information shall be provided, detailing the contents of the proposed equipment building servicing the proposed communications antenna. The information shall include, but not be limited to, the type and quantity of oil, gasoline, batteries, propane, natural gas or any other fuel stored within the building. Information shall also be submitted which demonstrates that any hazardous materials stored on site, including but not limited to fuel sources shall be housed to minimize the potential for any adverse impact on adjacent land uses. Materials safety data sheets for any hazardous material stored or utilized in the equipment building shall be submitted to the municipality. The use of fuels and hazardous materials shall also be consistent with any federal, state or municipal requirements regarding the same.
- (6) Security fence. A security fence with a minimum height of six (6) feet and a maximum height of twelve (12) feet shall surround any separate communications equipment building where appropriate as may be determined Zoning Officer. Vehicular access to the communications equipment building, or any structure housing related equipment, shall not interfere with the parking or vehicular circulations on the site for the principal use.
- (7) Non-commercial usage exemption. City residents utilizing satellite dishes and antennas for the purpose of maintaining television, phone, radio and/or internet connections at their respective residences, as well as amateur radio operators, shall be exempt from the regulations enumerated in this section of the Zoning Ordinance.
- (8) Design regulations. Communications antennas shall employ stealth technology, be designed as an alternative mounting structure, or be treated to match the wireless support structure to which they are mounted, in order to minimize aesthetic impact. The application of the stealth technology/alternative mounting/color treatment chosen by the applicant shall be subject to the approval of the City.
- (9) Inspection. The City reserves the right to inspect any communications antenna to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the City Code or state or federal law. The City and/or its agents shall have the

authority to enter the property upon which a communications antenna is located, upon reasonable notice to the operator, to ensure such compliance.

- (10) Insurance. Each person that owns or operates a communications antenna shall provide the City with a certificate of insurance, naming the City as an additional insured, and evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications antenna.

D. Additional regulations applicable to all communications antennas located in the public rights-of-way (“ROW”). In addition to the regulations enumerated in Section 595-269(A), the following regulations shall apply to communications antennas located in the public rights-of-way:

- (1) Co-location. Communications antennas in the ROW shall be co-located on existing infrastructure, such as existing utility poles or light poles. If co-location is not technologically or economically feasible, the applicant, with the City’s approval, shall locate its communications antennas on existing poles or freestanding structures in the public rights-of-way that do not already act as wireless support structures.

- (2) Special exception approval required. Any applicant proposing the construction of a new communications antenna shall first obtain special exception authorization from the City. New constructions, modifications, and replacements that fall under the WBCA or the applicable provisions of the FCC’s October 2014 Report and Order, shall be not be subject to the special exception process. The special exception application, and accompanying documentation, shall demonstrate that the proposed facility complies with all applicable provisions in the City of Easton Zoning Ordinance.

- (3) Design requirements:

- a. To the extent permitted by state and federal law, communications antenna installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
- b. Communications antennas and related equipment shall be treated with stealth technology by the communications antenna owner and/or applicant to match the wireless support structure upon which they are mounted, and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

- (4) Time, place and manner. The City shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications antennas in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the City and the requirements of the Public Utility Code.

- (5) Equipment location. Communications antennas and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to



otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the City. In addition:

- a. Ground-mounted related equipment shall be located between the sidewalk and shall be as close to the curb as possible, meeting PADOT standards for clearances and shall not interfere with existing utilities. For reasons of safety and aesthetics, such equipment shall neither protrude onto the curb, nor obstruct the sidewalk.
  - b. Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the City.
  - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the City.
  - d. Graffiti on any wireless support structures or any related equipment shall be removed at the sole expense of the owner.
  - e. Any proposed underground vault related to Communications antennas shall be reviewed and is subject to approval by the City.
- (6) Relocation or removal of facilities. Within two (2) months following written notice from the City, or such longer period as the City determines is reasonably necessary or such shorter period in the case of an emergency, the owner of a communications antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications antenna when the City, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- a. The construction, repair, maintenance or installation of any City or other public improvement in the right-of-way;
  - b. The operations of the City or other governmental entity in the ROW;
  - c. Vacation of a street or road or the release of a utility easement; or
  - d. An emergency as determined by the City.

#### **§ 595-270 Requirements and Standards for Communications Towers**

A. General and specific requirements for all communications towers. The following regulations shall apply to all communications towers, excluding any non-commercial tower that is owned and operated by a federally licensed amateur radio operator.

- (1) Standard of care. All communications towers shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the Pennsylvania Uniform Construction Code, American National Standards Institute (ANSI) Code, Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. At all times, communications towers shall be kept and maintained in good condition, order and

repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the City.

- (2) Notice. For the installation of towers which are less than forty (40) feet in height, the Zoning Officer shall notify all property owners within a one hundred (100 foot radius of said town installation shall receive written notification; and towers which exceed forty (40) feet in height, property owners who live within five hundred (500 feet of the location of the tower shall receive written notification.
- (3) Special exception authorization required. Communications towers are permitted by special exception in certain zoning districts, at a height necessary to satisfy their function in the applicant's wireless communications system. No applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The applicant shall demonstrate that the proposed communications tower is the minimum height necessary for its service area.
  - a. Prior to the City Zoning Hearing Board's consideration of a special exception application authorizing the construction and installation of a communications tower, it shall be incumbent upon the applicant for such special exception approval to prove to the reasonable satisfaction of City Zoning Hearing Board that the applicant cannot adequately extend or infill its communications system by the use of equipment such as redoes, repeaters, communications antennas, and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The applicant shall further demonstrate that the proposed communications tower must be located where it is proposed in order to serve the applicant's service area and that no other viable colocation alternative location exists.
  - b. The special exception application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the applicant, the power in watts at which the applicant transmits, and any relevant related tests conducted by the applicant in determining the need for the proposed site and installation.
  - c. The special exception application shall be accompanied by documentation demonstrating that the proposed communications tower complies with all state and federal laws and regulations concerning aviation safety.
  - d. Where the communications tower is located on a property with another principal use, the applicant shall present documentation to the City Zoning Hearing Board that the owner of the property has granted an easement for the proposed communications tower and that vehicular access will be provided to the facility.
  - e. The special exception application shall be accompanied by documentation demonstrating that the proposed communications tower complies with all applicable provisions in this Chapter.
- (4) Engineer inspection. As a condition of approval, for the construction and erection of a communications tower, a structural engineer registered in Pennsylvania shall issue to the

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

- (5) Visual appearance. Communications towers shall employ stealth technology or be designed as an alternative mounting structure. All communications towers and related equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The City Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district and/or surrounding area involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and construction principles, practices and techniques.
- (6) Co-location and siting. An application for a new communications tower shall demonstrate that the proposed communications tower cannot be accommodated on an existing or approved structure or building. The City Zoning Hearing Board may deny an application to construct a new communications tower if the applicant has not made a good faith effort to mount a communications antenna on an existing structure. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter ( $\frac{1}{4}$ ) of a mile radius of the site proposed, sought permission to install a communications antenna on those structures, buildings, and towers and was denied for one of the following reasons:
  - a. The proposed antenna and related equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - b. The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
  - c. Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - d. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- (7) Permit required for modifications. To the extent permissible under applicable state and federal law, any applicant proposing the modification of an existing communications tower, which substantially changes the overall height of such wireless support structure, shall first obtain a building permit from the City.

- (8) Gap in coverage or capacity. The applicant must demonstrate that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of communications tower being proposed is the least intrusive means by which to fill that gap. The existence or non-existence of a gap in wireless coverage or capacity shall be a factor in the City Zoning Hearing Board's decision on an application for approval of communications tower.
- (9) Additional communications antennas. The applicant shall provide the City with a written commitment that it will allow other service providers to co-locate communications antennas on communications towers where technologically and economically feasible. To the extent permissible under federal and state law, the owner of a communications tower shall not install any additional communications antennas without obtaining the prior written approval of the City.
- (10) Wind. All communications towers shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222), as amended.
- (11) Height. In all zoning districts except Adaptive Reuse (AR), the maximum height of any communications tower shall be 150 feet; provided, however, that such height may be increased to no more than 199 feet. In the Adaptive Reuse (AR) Zoning District, the maximum height of any communications tower shall be 179 feet. Communications towers in the ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two (2) block radius of the proposed facility, unless the applicant proves to the satisfaction of the Zoning Hearing Board that it cannot infill its gap in coverage or capacity at such height.
- (12) Related Equipment. Either a one single-story wireless communications equipment building not exceeding two hundred fifty (250) square feet in area, or up to five boxes placed on a pad not exceeding ten (10) feet by twenty (20) feet in area housing related equipment, may be located on the site for each unrelated company sharing space on the communications tower. Exposed foundations are considered to be a structure and an encroachment if proposed to be located in a public right of way. A proposed encroachment shall require approval by the Council of the City of Easton.
- (13) Public safety communications and other communications services. No communications tower shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (14) Maintenance. The following maintenance requirements shall apply:
  - a. A communications tower shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - b. Such maintenance shall be performed to ensure the upkeep of the communications tower in order to promote the safety and security of the City's residents, and utilize the best available technology for preventing failures and accidents.

- (15) Radio frequency emissions. A communications tower shall not, by itself or in conjunction with other communications towers or antennas, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields,” as amended.
- (16) Historic buildings or districts.
- a. To the extent permitted by state and federal law, no communications tower may be located upon any property, or on a building or structure, that is listed on either the National or Pennsylvania Registers of Historic Places (either inside or outside the public rights-of-way), or that is deemed by the City to be local historic significance.
  - b. Downtown Local Historic District. Should the applicant demonstrate the only manner by which it can infill a gap in coverage or capacity it to site a communications tower in the Downtown Local Historic District, it must prove that the addition of the proposed communications tower to properties located in the Downtown Local Historic District, as approved by the Pennsylvania Historical Museums Commission, will not adversely affect any historic and/or culturally significant resources within the view shed of the proposed site. The applicant shall comply with historic and cultural resource guidelines for wireless communications facilities as established by the Easton Historic District Commission.
  - c. The Easton Historic District Commission shall also consider and provide comment on all applications for proposed communications towers to be located on and/or within 200 feet of individually eligible or listed National Register of Historic Places resources within the City boundaries. Easton Historic District Commission comment shall be provided to the Pennsylvania Historical and Museum Commission within thirty (30) days of the receipt of notification for a proposed telecommunications facility. A certificate of appropriateness must be obtained from the Easton Historic District Commission for a proposed cellular communications tower within a Pennsylvania Historical and Museum Commission-delineated local historic district(s) as governed by the Historic District Act of June 13, 1961, Pennsylvania Law 282, No. 167, as amended, 53 P.S. § 8001 et seq.
- (17) Signs. All communications towers shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the communications tower shall be those required by the FCC, or any other federal or state agency.
- (18) Lighting. No communications tower shall be artificially lighted, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and the City Manager.

- (19) Noise. Generators shall be located below grade and suitably soundproofed so that noise volumes measured at all property lines do not exceed ambient levels as outlined in Chapter 376, Noise, of the Code of the City of Easton. Additionally, all telecommunications towers and associated noise- and/or vibration-generating sources shall meet the noise control standards required by Chapter 376, Noise, of the Code of the City of Easton.
- (20) Aviation safety. Communications towers shall comply with all federal and state laws and regulations concerning aviation safety.
- (21) Retention of experts. The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application for approval of the communications tower and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The applicant and/or owner of the communications tower shall reimburse the City for all costs of the City's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (22) Timing of approval pursuant to FCC regulations, as amended. Within thirty (30) calendar days of the date that an application for a communications tower is filed with the City, the City shall notify the applicant in writing of any information that may be required to complete such application. All applications for communications towers shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such communications tower and the City shall advise the applicant in writing of its decision.
- (23) Non-conforming uses. Non-conforming communications towers which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this section.
- (24) Removal. In the event that use of a communications tower is planned to be discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned communications towers, or portions of communications towers, shall be removed as follows:
  - a. All unused or abandoned communications towers and related equipment shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the City.
  - b. If the communications tower and/or related equipment is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the City, the communications tower and related equipment may be removed by the City and the cost of removal assessed against the owner of the communications tower. As security, the City reserves the right to the salvage value of any removed communications tower and/or related equipment, if such communications tower and/or related equipment are not removed by the owner within the timeframes enumerated in this Chapter.

- c. Any unused portions of communications towers, including antennas, shall be removed within two (2) months of the time of cessation of operations. The City must approve all replacements of portions of a communications tower previously removed.
- (25) Permit Fees. The City may assess appropriate and reasonable permit fees directly related to the City's actual costs in reviewing and processing the application for approval of a communications tower, as well as related inspection, monitoring, and related costs.
- (26) FCC license. Each person that owns or operates a communications tower over forty (40) feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (27) National Environmental Policy Act (NEPA).
  - a. The applicant shall demonstrate that all NEPA requirements, where applicable, for any proposed communications tower and/or antenna facilities have been met.
  - b. In addition, the applicant shall notify the City at least thirty (30) days prior to any hearing or consideration of the environmental assessment report by the Federal Communications Commission or Advisory Council on Historic Preservation. The applicant shall provide to the municipality documentation demonstrating how any negative impact on the features noted above will be mitigated.
- (28) Insurance. Each person that owns or operates a communications tower greater than forty (40) feet in height shall provide the City with a certificate of insurance naming the City as an additional insured, and evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the communications tower. Each person that owns or operates a communications tower forty (40) feet or less in height shall provide the City with a certificate of insurance naming the City as an additional insured, and evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each communications tower.
- (29) Indemnification. Each person that owns or operates a communications tower shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communications tower. Each person that owns or operates a communications tower shall defend any actions or proceedings against the City in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of the Communications tower. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities,

damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

- (30) Engineer signature. All plans and drawings for a communications tower shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (31) Financial security. Prior to receipt of a zoning permit for the construction or placement of a communications tower, the applicant shall provide to the City financial security sufficient to guarantee the construction of the communications tower. Said financial security shall remain in place until the communications tower is fully constructed. Should the communications tower be abandoned by the owner and/or operator, and not removed within two (2) months of such abandonment, the City shall have the authority to remove the communications tower and sell all of its pieces, as well as related equipment, used in the operation of the communications tower, in order to recover the cost of said removal.

B. Additional requirements for communications towers located outside the public rights-of-way. In addition to the regulations enumerated in Section 595-270(A), the following regulations shall apply to Communications towers located outside the Public Rights-of-Way:

(1) Development regulations.

- a. Communications towers shall not be located in, or within seventy-five (75) feet of an area in which all utilities are located underground.
- b. Communications Towers are permitted via special exception, subject to the prohibitions contained herein, in certain zoning districts throughout the City.
- c. Sole use on a lot. A communications tower shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum size specifications set forth in the City Zoning Code.
- d. Combined with another use. A communications tower may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
  1. The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications tower.
  2. Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Communications tower and guy wires, the equipment building, security fence, and buffer planting if the proposed Communications Towers is greater than forty (40) feet in height.
  3. Minimum setbacks. The minimum distance between the base of a communications tower and any adjoining property line or street right-of-way line shall be equal to one hundred percent (100%) of the height of the communications tower. The underlying lot must be large enough to



accommodate related equipment and all other features typically found within the immediate area of a communications tower.

(2) Design regulations.

- a. The communications tower shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the stealth technology chosen by the applicant shall be subject to the approval of the City Zoning Hearing Board.
- b. To the extent permissible by law, any height extensions to an existing communications tower shall require prior approval of the City.
- c. Any proposed communications tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's communications antennas and comparable antennas, for the maximum amount of future users based on the size of the proposed communications tower.
- d. Any communications tower over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

(3) Surrounding environs.

- a. The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the communications tower shall be preserved to the maximum extent possible.
- b. The applicant shall submit a soil report to the City complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222, as amended, to document and verify the design specifications of the foundation, consistent with Chapter 245, as amended, of the communications tower, and anchors for guy wires, if used.

(4) Fence/screen.

- a. A security fence with a minimum height of six (6) feet and maximum height of twelve (12) feet shall completely surround any communications tower greater than forty (40) feet in height, as well as guy wires, or any building housing related equipment.
- b. Where appropriate, the base of a communications tower shall be landscaped with plants native to the Lehigh Valley, Pennsylvania area so as to screen the foundation, base and communications equipment building from abutting properties, as determined by the Zoning Officer. All planting screens shall meet the provisions outlined in Section 166, Landscaping requirements, of this Chapter. Any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping may be permitted if they achieve the same degree of screening as the required planting screen. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible. Proposed plant type(s) and locations shall be shown on the site plan and are subject to approval by the City of Easton Shade Tree Commission.

(5) Related equipment.

- a. Ground-mounted related equipment associated to, or connected with, a communications tower shall be placed underground or screened from public view using stealth technologies or plant screening, as described herein.
  - b. All related equipment shall be architecturally designed to blend into the environment in which it is situated and shall meet the minimum setback requirements of the underlying zoning district.
  - c. Upon application for a communications towers, information shall be provided, detailing the contents of the proposed equipment building servicing the proposed communications tower. The information shall include, but not be limited to, the type and quantity of oil, gasoline, batteries, propane, natural gas or any other fuel stored within the building. Information shall also be submitted which demonstrates that any hazardous materials stored on site, including but not limited to fuel sources shall be housed to minimize the potential for any adverse impact on adjacent land uses. Materials safety data sheets for any hazardous material stored or utilized in the equipment building shall be submitted to the municipality. The use of fuels and hazardous materials shall also be consistent with any federal, state or municipal requirements regarding the same.
- (6) Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to communications towers. The access road shall be a dust-free all-weather surface for its entire length. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the communications tower owner shall present documentation to the City that the property owner has granted an easement for the proposed facility.
- (7) Parking. For each communications tower greater than forty (40) feet in height, there shall be two off-street parking spaces.
- (8) Inspection. The City reserves the right to inspect any communications tower to ensure compliance with the Zoning Ordinance and any other provisions found within the City Code or state or federal law. The City and/or its agents shall have the authority to enter the property upon which a communications tower is located at any time, upon reasonable notice to the operator, to ensure such compliance.

C. Additional requirements for communications towers located within the public ROW. In addition to the regulations enumerated in Section 595-270(A), the following regulations shall apply to communications towers located in the public rights-of-way.

(1) Location and development standards.

- a. Communications towers in the ROW shall not exceed a height comparable to the average height of utility poles or electrical poles within a two (2) block radius of the proposed facility. Communications towers are prohibited in areas in which all utilities are located underground.
- b. New communications towers shall not be located in the front façade area of any structure.

- c. Communications towers shall be permitted along City Streets by special exception throughout the City, regardless of the underlying zoning district.
- (2) Time, place and manner. The City shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications towers in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the City and the requirements of the Public Utility Code.
- (3) Equipment location. Communications towers and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the City. In addition:
- a. Ground-mounted related equipment shall be located between the sidewalk and shall be as close to the curb as possible, meeting PADOT standards for clearances and shall not interfere with existing utilities. For reasons of safety and aesthetics, such equipment shall neither protrude onto the curb, nor obstruct the sidewalk.
  - b. Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the City Zoning Hearing Board.
  - c. Required electrical meter cabinets shall be screened to blend in with the surrounding area.
  - d. Any graffiti on the tower or on any related equipment shall be removed at the sole expense of the owner.
  - e. Any underground vaults related to communications towers shall be reviewed and approved by the City Zoning Hearing Board.
- (4) Design regulations.
- a. A communications tower shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the applicant shall be subject to the approval of the City Zoning Hearing Board.
  - b. To the extent permissible under state and federal law, any height extensions to an existing communications tower shall require prior approval of the City, and shall not violate the provisions described herein.
  - c. A communications tower shall be designed structurally, electrically, and in all respects to accommodate both the applicant's communications antennas and comparable antennas for the maximum amount of future users based on the size of the proposed communications tower.

- d. The siting and construction of communications towers and related equipment along the City's streets and sidewalks shall not impact the City's obligations outlined in the Americans with Disabilities Act (ADA), as amended.
  - e. The base of a communications tower shall not impede pedestrian walkways or extend into the cartway. All towers shall meet PADOT stands for clearances.
  - f. The applicant shall ensure that proposed communications towers and related equipment comply with Chapter 515, Streets and Sidewalks.
- (5) Relocation or removal of facilities. Within sixty (60) days following written notice from the City, or such longer period as the City determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a communications tower in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications tower when the City, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- a. The construction, repair, maintenance or installation of any City or other public improvement in the right-of-way;
  - b. The operations of the City or other governmental entity in the right-of-way;
  - c. Vacation of a street or road or the release of a utility easement; or
  - d. An emergency as determined by the City.
- (6) Reimbursement for ROW use. In addition to permit fees as described in this section, every communications tower in the ROW is subject to the City's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the City'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 City. The owner of each communications tower shall pay an annual fee to the City to compensate the City for the City's costs incurred in connection with the activities described above.

**SECTION VI. Miscellaneous**

- A. Police powers. The City, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the City under applicable federal, state and local laws and regulations.
- B. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
- C. Effective Date. This Ordinance shall become effective thirty (30) days after enactment by the City of Easton.

