

## NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Supervisors of the Township of Derry, Dauphin County, Pennsylvania, will conduct a public hearing on Tuesday, August 23, 2016, at 6:00 p.m., in the meeting room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA. The purpose of the hearing is to receive public comment regarding proposed Ordinance No. 672, which would amend Chapter 225 (Zoning) of the Code of the Township of Derry regarding communications antennas and communications towers, addressing definitions, permitted locations, design, maintenance, and permitting. Ordinance No. 672 also adds a severability clause to Chapter 225 (Zoning).

The proposed ordinance may be viewed at the Derry Township Department of Community Development, 600 Clearwater Road, Hershey, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, or online at [www.derrytownship.org](http://www.derrytownship.org) under 'Public Notices.' **(SEE BELOW)**

All interested parties are invited to attend.

Charles W. Emerick, Jr., Director of Community Development

**ORDINANCE NO. 672**

**AN ORDINANCE OF THE TOWNSHIP OF DERRY, DAUPHIN COUNTY, PENNSYLVANIA, AMENDING CHAPTER 225 (ZONING) OF THE CODE OF THE TOWNSHIP OF DERRY TO REDEFINE THE TERMS 'CO-LOCATION', 'COMMUNICATIONS ANTENNA', AND 'COMMUNICATIONS TOWER'; TO DEFINE THE TERMS 'ADMINISTRATIVE REVIEW', 'COMMUNICATIONS ANCILLARY EQUIPMENT', 'COMMUNICATIONS ANTENNA SITE', 'COMMUNICATIONS ANTENNA, BUILDING-MOUNTED', 'COMMUNICATIONS ANTENNA, UTILITY-MOUNTED', 'DATA COLLECTION UNIT', 'DISTRIBUTED ANTENNA SYSTEM', 'EASEMENT', 'RIGHT-OF-WAY', 'SMALL CELL COMMUNICATIONS SYSTEM', AND 'STEALTH DESIGN'; AND TO REVISE THE PERMITTED USES AS THEY RELATE TO THE SITING AND GENERAL DESIGN REQUIREMENTS FOR ALL COMMUNICATIONS ANTENNAS TO BE LOCATED IN THE TOWNSHIP, AND AS THEY RELATE TO THE SPECIFIC DESIGN REQUIREMENTS FOR THE CO-LOCATION OF COMMUNICATIONS ANTENNAS, BUILDING-MOUNTED COMMUNICATIONS ANTENNAS, COMMUNICATIONS TOWERS THAT ARE 50 FEET IN HEIGHT OR LESS, UTILITY-MOUNTED COMMUNICATIONS ANTENNAS, AND FOR COMMUNICATIONS TOWERS THAT ARE GREATER THAN 50 FEET IN HEIGHT**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of the Township of Derry, Dauphin County, Pennsylvania, as follows:

**SECTION 1:** Chapter 225, Article I (General Provisions), §225-5 of the Code of the Township of Derry is hereby amended by adding the following:

- C. The provisions of this chapter are severable, and if any section, sentence, clause, part, or provision hereof shall be held to be 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, parts or provisions of this chapter. It is hereby declared to be the intent of the Board of Supervisors that this chapter would have been enacted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

**SECTION 2:** Chapter 225, Article II (Definitions), §225-8 of the Code of the Township of Derry is hereby amended by deleting the term 'Communications Equipment Building' and its definition.

**SECTION 3:** Chapter 225, Article II (Definitions), §225-8 of the Code of the Township of Derry is hereby amended by revising the definitions for the following terms:

**CO-LOCATION** – The placement or installation of one or more wireless communications antennas on a previously-approved communications tower,

building-mounted antenna, utility-mounted antenna or any other structure that already supports at least one existing communications antenna.

**COMMUNICATIONS ANTENNA** – Any antenna device, including mounting and supporting fixtures, conduits, ducts, electronics, and control boxes, used for all types of wireless communication services, such as radio, television, cellular phone, pager, mobile radio, internet, or any other wireless communication, regardless of the geographical area the transmission of signals is intended to serve. This definition shall include data collection units, distributed antenna systems, small cell communications systems, and similar systems. This definition shall not include private, residence-mounted radio, television, citizens band, or amateur radio antennas; GPS surveying equipment or their supporting structures; any antenna device that is installed to boost emergency 911 signals within a building, structure, or site; or any antenna device that is otherwise located wholly within a building and designed for the primary purpose of transmission of signals to users within such building.

**COMMUNICATIONS TOWER** – Any structure that is used for the primary purpose of supporting one or more communications antennas, such as self-supporting lattice towers, guy towers, and monopoles, but excluding buildings, utility poles, traffic light poles, and streetlights. This definition shall also not include any communications tower that may be required for the following events:

- A. Any temporary communications tower constructed for a special event, provided that the tower will not be located on the premises for more than 30 days; that the height of the tower will not exceed 100 feet; and that the tower will be set back from all property lines at a distance that is equal to its height including all attached communications antennas.
- B. Any temporary communications tower that may be required in response to a natural disaster or other emergency event.

**SECTION 4:** Chapter 225, Article II (Definitions), §225-8 of the Code of the Township of Derry is hereby amended by adding the following terms and definitions:

**ADMINISTRATIVE REVIEW** – The review process for a newly proposed, altered, or co-located communications antenna, communications ancillary equipment, and/or communications tower, to determine compliance with all applicable requirements of this chapter, and in accordance with the rulings of the Federal Communications Commission regarding the appropriate municipal permitting and review timelines.

**COMMUNICATIONS ANCILLARY EQUIPMENT** – The buildings, cabinets, vaults, enclosures, and equipment required for operation of all communications antennas, including, but not limited to, repeaters, equipment housing, ventilation, and other mechanical equipment.

**COMMUNICATIONS ANTENNA, BUILDING-MOUNTED** – A communications antenna that is attached to and supported by a building, or any portion thereof.

**COMMUNICATIONS ANTENNA, UTILITY-MOUNTED** – A communications antenna that is attached to and supported by a utility pole, traffic light pole, streetlight, or similar structure, excluding a building.

**COMMUNICATIONS ANTENNA SITE** – The entire site area located outside of a public right-of-way that includes the boundaries of the leased or owned property surrounding a communications antenna and all other support structures and ground-mounted communications ancillary equipment necessary to operate the communications antenna and any access or utility easements related to the site.

**DATA COLLECTION UNIT** – A communications antenna that is utilized as a means to collect data regarding the usage of a specific service, which is then used to enhance operations of the service provider, such as the antenna and equipment associated with wireless smart meters utilized by a public or private utility company.

**DISTRIBUTED ANTENNA SYSTEM (DAS)** – A dispersed network of communications antenna sites that distributes wireless transmission frequencies from a central hub to wireless users throughout a geographical service area, lot, or structure with poor coverage or inadequate capacity.

**EASEMENT** – The right to use or reserve the property of another person for a specified purpose.

**RIGHT-OF-WAY** – An area of publicly- or privately-owned land encumbered by reservation, dedication, forced dedication, prescription, or condemnation that is occupied or intended to be occupied by a road, walkway, railroad, electric transmission line, oil or gas pipeline, water line, sanitary or storm sewer line, and other similar uses. Generally this definition also includes the right of one to pass over the property of another and is, at times, synonymous with the term 'easement.'

**SMALL CELL COMMUNICATIONS SYSTEM** – Any wireless communications antenna or technology, other than a distributed antenna system or a data collection unit, that is low-powered and designed to deploy wireless transmission frequencies from a central hub communications antenna or satellite to local wireless users, whether indoors or outdoors, for the purposes of providing or boosting service coverage or deploying bandwidth within the intended geographical area.

**STEALTH DESIGN** – Camouflaging methods used to minimize the visual impacts of communications antennas, communications towers, and

communications ancillary equipment, which render these facilities more aesthetically appealing by concealment in existing, proposed, or mock buildings, structures, or facades, and/or by blending the design of the facilities with an existing supporting structure or to the visual character of structures, such as existing utility poles or streetlights that are located in close proximity to the proposed facilities. The intent of such methods seek to render the proposed facilities less invasive to the visual context and character of the surrounding environment by a casual observer.

**SECTION 5:** Chapter 225, Article V (Agricultural/Conservation District), §225-22.N of the Code of the Township of Derry is hereby amended to read as follows:

- N. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 6:** Chapter 225, Article V (Agricultural/Conservation District), §225-23.D of the Code of the Township of Derry is hereby amended to read as follows:

- D. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 7:** Chapter 225, Article VI (M.H.S. Campus District), §225-26.N of the Code of the Township of Derry is hereby amended to read as follows:

- N. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 8:** Chapter 225, Article VI (M.H.S. Campus District), §225-26.1.A of the Code of the Township of Derry is hereby amended to read as follows:

- A. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 9:** Chapter 225, Article VII (Suburban Residential District), §225-29 of the Code of the Township of Derry is hereby amended by adding the following:

- L. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 10:** Chapter 225, Article VIII (Village Residential District), §225-33 of the Code of the Township of Derry is hereby amended by adding the following:

- L. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 11:** Chapter 225, Article IX (Attached Residential District), §225-37 of the Code of the Township of Derry is hereby amended by adding the following:

- N. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 12:** Chapter 225, Article X (Multifamily Residential District), §225-41 of the Code of the Township of Derry is hereby amended by adding the following:

- M. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 13:** Chapter 225, Article XI (Business Office District), §225-45.P of the Code of the Township of Derry is hereby amended to read as follows:

- P. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 14:** Chapter 225, Article XI (Business Office District), §225-46.C of the Code of the Township of Derry is hereby amended to read as follows:

- C. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 15:** Chapter 225, Article XII (Neighborhood Commercial District), §225-49.X of the Code of the Township of Derry is hereby amended to read as follows:

- X. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 16:** Chapter 225, Article XII (Neighborhood Commercial District), §225-50.C of the Code of the Township of Derry is hereby amended to read as follows:

- C. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 17:** Chapter 225, Article XIII (General Commercial District), §225-53.A.(44) of the Code of the Township of Derry is hereby amended to read as follows:

- (44) Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 18:** Chapter 225, Article XIII (General Commercial District), §225-54.D of the Code of the Township of Derry is hereby amended to read as follows:

- D. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 19:** Chapter 225, Article XIV (Downtown Commercial District), §225-57.A of the Code of the Township of Derry is hereby amended by adding the following:

- (31) Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 20:** Chapter 225, Article XV (Village Core District), §225-61.A of the Code of the Township of Derry is hereby amended by adding the following:

- (32) Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 21:** Chapter 225, Article XVI (Economic Development District), §225-65.X of the Code of the Township of Derry is hereby amended to read as follows:

- X. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 22:** Chapter 225, Article XVI (Economic Development District), §225-66.C of the Code of the Township of Derry is hereby amended to read as follows:

- C. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 23:** Chapter 225, Article XVII (Research Overlay District), §225-70.A of the Code of the Township of Derry is hereby amended to read as follows:

C. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 24:** Chapter 225, Article XVIII (Industrial District), §225-73.DD of the Code of the Township of Derry is hereby amended to read as follows:

DD. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 25:** Chapter 225, Article XVIII (Industrial District), §225-74.C of the Code of the Township of Derry is hereby amended to read as follows:

C. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 26:** Chapter 225, Article XIX (Limited Compatibility District), §225-77.J of the Code of the Township of Derry is hereby amended to read as follows:

J. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 27:** Chapter 225, Article XIX (Limited Compatibility District), §225-78.B of the Code of the Township of Derry is hereby amended to read as follows:

B. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 28:** Chapter 225, Article XX (Medical Campus District), §225-81.S of the Code of the Township of Derry is hereby amended to read as follows:

S. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 29:** Chapter 225, Article XX (Medical Campus District), §225-81.1.A of the Code of the Township of Derry is hereby amended to read as follows:

A. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 30:** Chapter 225, Article XXI (Public District), §225-84.M of the Code of the Township of Derry is hereby amended to read as follows:

M. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in



height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 31:** Chapter 225, Article XXI (Public District), §225-84.1.A of the Code of the Township of Derry is hereby amended to read as follows:

A. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 32:** Chapter 225, Article XXII (Commercial Recreation District), §225-87.AA of the Code of the Township of Derry is hereby amended to read as follows:

AA. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 33:** Chapter 225, Article XXII (Commercial Recreation District), §225-88.E of the Code of the Township of Derry is hereby amended to read as follows:

E. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 34:** Chapter 225, Article XXIII (Commercial Golf District), §225-91.I of the Code of the Township of Derry is hereby amended to read as follows:

I. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 35:** Chapter 225, Article XXIII (Commercial Golf District), §225-91.1.A of the Code of the Township of Derry is hereby amended to read as follows:

A. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 36:** Chapter 225, Article XXIV (Commercial Entertainment District), §225-94.O of the Code of the Township of Derry is hereby amended to read as follows:

O. Communications antennas, including building-mounted communications antennas (see §225-197.C), communications towers that are 50 feet or less in height and utility-mounted communications antennas (see §225-197.D), and co-located communications antennas (see §225-197.F).

**SECTION 37:** Chapter 225, Article XXIV (Commercial Entertainment District), §225-94.1.A of the Code of the Township of Derry is hereby amended to read as follows:

A. Communications towers in excess of 50 feet in height. See §225-104.

**SECTION 38:** Chapter 225, Article XXXIV (General Regulations), §225-172.A.(6) of the Code of the Township of Derry is hereby amended to read as follows:

- (6) Antennas, other than satellite antennas (see §225-183) and communications antennas (see §225-197).

**SECTION 39:** Chapter 225, Article XXXIV (General Regulations), §225-172.B.(1) of the Code of the Township of Derry is hereby amended to read as follows:

- (1) Antennas, other than satellite antennas (see §225-183) and communications antennas (see §225-197).

**SECTION 40:** Chapter 225, Article XXXIV (General Regulations), §225-173.T of the Code of the Township of Derry is hereby amended to read as follows:

- T. Utility structures not exceeding 84 inches in height and utility poles, masts, or towers, other than communications antennas and towers exceeding 50 feet in height (See §225-197 and §225-104).

**SECTION 41:** Chapter 225, Article XXV (Specific Criteria for Special Exception Uses), §225-104 of the Code of the Township of Derry is hereby amended and restated in its entirety, as follows:

**§225-104. Communications towers greater than 50 feet in height.**

Communications towers greater than 50 feet in height shall be permitted by special exception in all zoning districts except the Suburban Residential, Village Residential, Attached Residential, Multifamily Residential, Downtown Commercial, and Village Core zoning districts, in accordance with the following:

- A. The applicant shall demonstrate compliance with the general design requirements of §225-197.B, in addition to the requirements of this section.
- B. Height requirements. Communications towers, including attached antennas, shall be kept to the minimum height needed to function in accordance with industry standards; however, in no case shall any communications tower exceed a maximum height of 150 feet.
- C. Location and setback requirements.
  - (1) Communications towers shall have a minimum yard area, for all yards, that is equal to the height of the tower, including all antennas.
  - (2) Communications towers shall be located a minimum of 500 feet from the Suburban Residential, Village Residential, Attached Residential, and Multifamily Residential zoning districts, as well as a minimum of 500 feet

from an existing dwelling or a dwelling lot approved by the Township as part of a subdivision or land development plan.

- (3) Communications towers in excess of 50 feet in height shall not be permitted to be located in a street right-of-way.

D. Siting report. The applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing communications tower, building, or other suitable structure within the boundaries of the Township and within 1 mile of the perimeter of the Township. A report shall be submitted with the application for permit approvals, demonstrating that the following requirements have been considered:

- (1) The applicant shall demonstrate that the tower is necessary to fill a gap in current coverage, or that a lack of adequate capacity is likely to exist within one year of the filing of the application for a new tower, and that the only possibility of closing this gap in coverage or providing adequate capacity is to construct a new tower facility.
- (2) The applicant shall demonstrate that there is no existing communications tower, building, or other suitable structure available within a one-mile radius of the proposed location of the tower on which the communications antennas can be located or co-located that would adequately fill the gap in coverage or provide the necessary capacity, as the case may be.
- (3) The applicant shall demonstrate that the proposed location is the least intrusive of the properties studied; that it will not impact any sensitive environmental areas under §225-188 of this chapter; and that it will not negatively affect public safety with regards to structure failure, falling ice, or other debris which may become detached from the facility.

E. Communications towers, communications antennas, and communications ancillary equipment shall be made of materials consisting of a neutral color or a color that blends well with natural surroundings, such as a low gloss light gray, light blue, or light green color, unless other colors are required by the Federal Communications Commission or Federal Aviation Commission.

F. The applicant shall demonstrate that sufficient area containing a durable, all-weather surface will be provided to accommodate parking and turnaround space for all anticipated maintenance and service vehicles traveling to the communications antenna site, without impeding access to other public areas such as parking and vehicular or pedestrian access areas, or otherwise preventing a reduction to the minimum number of off-street parking spaces required for other uses on the site.

G. Ground-mounted communications ancillary equipment.

- (1) Ground-mounted communications ancillary equipment may be established as part of the communications tower. The equipment and structures shall comply with the yard area requirements of the underlying zoning district in which the equipment is to be located. Where yard areas have been established for a detached accessory use, the equipment structures shall comply with these requirements, so long as the equipment is to be freestanding or attached to another accessory use structure. Where no yard areas have been established for a detached accessory use, or if the equipment structures are attached to a principal use structure, the yard areas shall comply with the underlying zoning district for a principal use. A communications tower is to be considered a principal use structure.
- (2) A fence shall be required around all components of the communications ancillary equipment location and shall be a minimum height of 8 feet. The fence shall be consistent with the provisions of §225-171.B of this chapter. Gates shall be locked, except during such times as the communications equipment is manned by operations or maintenance personnel.
- (3) An evergreen screen shall be required to surround the communications ancillary equipment and fence. The screen shall consist of a row of evergreen trees which shall be planted at a maximum spacing of 8 feet, center to center. The evergreen screen shall be a minimum height of 4 feet at planting and shall be a species that is expected to grow to a minimum height of 15 feet at maturity. In addition, existing vegetation which would aid in screening at and around the site shall be preserved to the greatest extent possible.

**SECTION 42:** Chapter 225, Article XXXIV (General Regulations), §225-197 of the Code of the Township of Derry is hereby amended and restated in its entirety, as follows:

**§225-197. Communications antennas, communications ancillary equipment, and communications towers.**

A. Purpose. The purpose of this section is to:

- (1) Accommodate the need for communications antennas, communications ancillary equipment, and communications towers while regulating their location and use in the Township.
- (2) Establish procedures for design, siting, construction, installation, maintenance, and removal of communications antennas, communications

ancillary equipment, and communications towers in the Township, including facilities located both inside and outside of the public rights-of-way.

- (3) Minimize adverse visual effects of communications antennas, communications ancillary equipment, and communications towers on the surrounding landscape by methods including, but not limited to, the use of stealth technology, proper placement, and co-location.
  - (4) Avoid potential damage to adjacent properties from structural failure of buildings or towers due to the placement of communications antennas, and provide for any other measures deemed necessary to promote the health, safety, and welfare of the Township residents, property owners, visitors, and businesses.
  - (5) Accommodate new wireless technologies, including, but not limited to, distributed antenna systems, data collection units, and similar small cell communications systems that may arise with further technological advances in the communications industry.
  - (6) Encourage the co-location of communications antennas on existing towers, buildings, and other structures that are structurally capable of supporting the antennas, rather than constructing new communications towers.
  - (7) Comply with all provisions and requirements of the Pennsylvania Wireless Broadband Collocation Act, as may be amended, and any other applicable State and/or Federal regulations governing communications antennas and supporting structures.
- B. General design requirements for all communications antennas, communications ancillary equipment, and supporting structures, including building-mounted communications antennas, utility-mounted communications antennas, and communications towers.
- (1) Permit and administrative review requirements.
    - (a) The applicant must provide a submittal package to the Township including a cover letter, permit application, site plan, and supporting documents indicating the intent to construct a communications antenna, communications ancillary equipment and/or a communications tower, in order to initiate the administrative review process under this section. Within 30 days of receiving the submittal package, the Township shall notify the applicant in writing of any additional information required to complete the administrative review.

- (b) A submittal package shall include an application for a zoning permit, and a building permit if applicable, for all newly-constructed or structurally modified communications antennas, communications ancillary equipment, and communications towers. Communications antennas that are to be co-located on an existing structure shall not require additional permit approvals, provided the applicant submits all required information under this subsection B and §225-197.F in order for the Township to determine compliance during the administrative review.
  - (c) All construction documents included in a submittal package shall be signed and sealed by a Pennsylvania-registered Professional Engineer, Architect, and/or Land Surveyor, as appropriate.
  - (d) The applicant shall be required to obtain all necessary approvals from PennDOT and public utility companies for installation of a communications antenna on their utility or service structures. Evidence of said approvals shall be submitted to the Township prior to the conclusion of the administrative review and/or issuance of a zoning permit for the use.
  - (e) Prior to the commencement of the administrative review and/or issuance of building and zoning permits for the construction of a freestanding communications tower, the applicant shall file a stormwater management plan under the requirements of Chapter 174 of the Township of Derry Code of Ordinances. In the event the construction of the tower will result in a subdivision of land beyond any lease or easement agreement, a land development plan meeting the requirements of Chapter 185 of the Township of Derry Code of Ordinances shall also be submitted.
  - (f) Within 60 days of the date of the Township's receipt of a submittal package for the co-location of a communications antenna, or for a distributed antenna system, data collection unit, or similar small-cell technology device; or 150 days for all other communications antennas, the Township shall make a final decision on the administrative review and advise the applicant of the decision in writing. If the administrative review is approved, required permits will be issued as the final determination of the review process. This review period may be extended, if both parties agree to the time extension in writing.
- (2) All communications antennas and supporting structures shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current and applicable technical, safety, and safety-related codes in effect at the time of such action, including, but not

limited to, the Township's Code of Ordinances, the American National Standards Institute (ANSI) Code, the National Electrical Safety Code, and the National Electrical Code, as well as the accepted industry practices of the National Association of Tower Erectors. The applicant shall submit detailed construction and elevation drawings indicating how the communications antenna will be mounted on the tower, as well as documents certifying that the communications antenna and supporting structure are designed to withstand the effects of wind according to the standard designated by ANSI, prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/EIA-222-G, as amended). Where conflict may occur between the codes, the most stringent requirement shall apply.

- (3) All communications antennas, communications ancillary equipment, and supporting structures shall be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel so that the same shall not endanger the life of any person or any property in the Township. The owner of the communications antenna and communications ancillary equipment shall perform a structural analysis of the antenna supporting structure in accordance with ANSI/EIA/TIA-222, as amended, whenever new antennas or equipment are proposed to be added to the supporting structure, and provide a written report of the analysis to the Township with the building permit application, or at the time of administrative review if a building permit is not required.
- (4) Communications antennas, communications ancillary equipment, and supporting structures shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Evidence of compliance with these standards shall be submitted by the applicant to the Township with the permit submittal package.
- (5) The owner or operator of a communications antenna shall be licensed by the Federal Communications Commission to operate such an antenna, when such licensure is required in accordance with Federal law.
- (6) No communications antennas shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services used by persons within the Township.
- (7) No signs or lights shall be mounted on or be directed at a communications antenna except as may be required by the National Electrical Code; or the Federal Communications Commission, the Federal Aviation Administration, or any other governmental agency which has jurisdiction.

- (8) Communications antennas shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation, and applicable Airport Safety Zone Overlay District regulations.
- (9) Any applicant proposing a communications antenna shall submit any applicable access agreements and/or easement descriptions that are necessary to provide entrance to the supporting structure on which the communications antenna is to be attached to confirm that installation and maintenance of the communications antenna can be accomplished.
- (10) Any communications antenna or communications ancillary equipment, or portion thereof, that is no longer in use for its approved purpose shall be removed at the facility owner's expense. The owner shall provide the Township with a copy of any notice to the Federal Communications Commission of intent to cease operations. If the facility remains unused for a period of 6 consecutive months, the owner or operator of the antenna and communications ancillary equipment shall, within a maximum of 90 days after the end of the 6-month period, remove the communications antenna, its support structure, and all accessory uses and equipment. In the case of multiple operations sharing the use of a single communications tower, this provision shall not become effective until all users cease operations.
- (11) All communications antennas and supporting structures that are located within a Township public right-of-way are subject to the Township's right to annually fix a fair and reasonable compensation to be paid for use and occupancy of the public right-of-way for the deployment of equipment within the public right-of-way. The owner of each communications tower, and when co-located, each communications antenna, shall pay an annual fee to compensate the Township for the costs incurred in connection with the administration of activities described above. The annual street right-of-way management fee for communications towers shall be determined by the Township and authorized by resolution of the Township Board of Supervisors, or by other legally binding contract prepared by the owner of the communications antenna where such terms are acceptable to the Township.
- (12) All new supporting structures for communications antennas shall be designed in all respects to accommodate both the applicant's communications antenna and future co-location of additional comparable antennas, so that the co-location of a future communications antenna will not create a violation of any applicable requirement of this chapter. This requirement shall not apply if the applicant is proposing to replace an existing structure, such as a utility or light pole, with a new structure that will continue to serve the same purpose.



- (13) Stealth design methods may be required for all communications antennas, communications ancillary equipment, and supporting structures, where determined appropriate by the Zoning Officer. Acceptable methods shall include, but not be limited to, visual screening; concealment in existing, proposed, or mock buildings, structures, or facades; or blending the design of the facilities through use of materials and colors of the existing supporting structure or to the visual character of structures or landscape located in close proximity to the proposed facilities. Where it can be demonstrated to the satisfaction of the Zoning Officer that stealth design is technologically or commercially impracticable or infeasible, a communications antenna supporting structure shall be a low gloss light blue, light green, or light gray color unless other colors will blend better with the building's walls and are approved by the Township, or are otherwise required by Federal Communications Commission or Federal Aviation Administration regulations.
- (14) Each person who owns or operates a communications antenna, communications tower, communications ancillary equipment, or portion thereof, shall, at their sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by, or connected with any act or omission of the person, their officers, agents, employees, or contractors arising out of, but not limited to, the construction, installation, operation, maintenance, or removal of the communications antenna, communications tower, or communications ancillary equipment, or portion thereof. Each person that owns or operates a communications antenna, communications tower, communications ancillary equipment, or portion thereof, shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a communications antenna, communications tower, communications ancillary equipment, or portion thereof. 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.

C. Building-mounted communications antennas. Building-mounted communications antennas shall be a permitted use in all zoning districts in accordance with the following:

- (1) The applicant shall demonstrate compliance with the general design requirements of Section 225-197.B, in addition to the requirements of this section.

- (2) Building-mounted communications antennas shall not be permitted on single-family detached, single-family semidetached, single-family attached, or two-family detached dwellings.
- (3) Building-mounted communications antennas and all related components that are located in the Suburban Residential, Village Residential, Attached Residential, Multifamily Residential, Downtown Commercial, and Village Core zoning districts shall be completely concealed or shall provide for stealth design methods that are compatible with the building that the antennas are to be mounted on.
- (4) Height requirements. Building-mounted communications antennas shall be kept to the minimum height needed to fill the gap in coverage or provide the necessary capacity, as the case may be; however, in no case shall the communications antenna exceed the existing building height by more than 50%. Under no circumstances shall the communications antenna and supporting structure exceed the height of a building that is nonconforming, with respect to the permitted building height of the underlying zoning district, by more than 20 feet.
- (5) The applicant shall submit evidence from a Pennsylvania-registered professional engineer certifying that the proposed installation of a building-mounted communications antenna, its communications ancillary equipment and supporting structures or other devices, will not exceed the structural capacity of the building when considering ice and snow loads as referenced in the prevailing Derry Township Building Code.
- (6) Communications ancillary equipment.
  - a. Communications ancillary equipment may be building-mounted, provided the equipment is not located on a street-facing wall and will be located at least 8 feet off of the ground. Proposed equipment materials shall comply with the stealth design methods identified in §225-197.B.(13).
  - b. Ground-mounted communications ancillary equipment may be established as part of the building-mounted communications antenna, provided the following criteria is met:
    - i. The equipment and structures shall comply with the yard area requirements of the underlying zoning district in which the equipment is to be located. Where yard areas have been established for a detached accessory use, the equipment structures shall comply with these requirements, so long as the

equipment is to be freestanding or attached to another accessory use structure. Where no yard areas have been established for a detached accessory use, or if the equipment structures are attached to a principal use structure, the yard areas shall comply with the underlying zoning district for a principal use.

- ii. A fence shall be required around all components of the communications ancillary equipment and shall be a minimum height of 8 feet. The fence shall be consistent with the provisions of §225-171.B of this chapter. Gates shall be locked, except during such times as the communications equipment is manned by operations or maintenance personnel.
- iii. An evergreen screen shall be required to surround the communications ancillary equipment and fence location. The screen shall consist of a row of evergreen trees which shall be planted at a maximum spacing of 8 feet, center to center. The evergreen screen shall be a minimum height of 4 feet at planting and shall be a species that is expected to grow to a minimum height of 15 feet at maturity. In addition, existing vegetation which would aid in screening at and around the site shall be preserved to the greatest extent possible.

- (7) Building-mounted communications antenna shall not be located on a building (or structure) that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on an official registry of historic structures maintained by the Township, if such list is maintained, or has been otherwise designated by the Township to be of historical significance.

D. Communications towers that are 50 feet or less in height and utility-mounted communications antennas. Communications towers that are less than 50 feet in height and utility-mounted communications antennas shall be permitted in all zoning districts in accordance with the following regulations:

- (1) The applicant shall demonstrate compliance with the general design requirements of Section 225-197.B, in addition to the requirements of this section.
- (2) Location and setback requirements.
  - (a) New communications towers shall not be permitted within the Suburban Residential, Village Residential, Multifamily Residential, or Attached Residential zoning districts, or within a public street right-of-

way that is adjacent to any of these districts. Under these circumstances, communications antennas shall be utility-mounted on existing or replacement utility poles, traffic signals, or streetlights, including utility poles that are located inside or outside of a street right-of-way.

- (b) Utility-mounted communications antennas shall not be permitted on any acorn-style streetlight or streetlights having shades which resemble Hershey's Kisses.
  - (c) Utility-mounted communications antennas shall be kept to the minimum height needed to function in accordance with industry standards; however, in no case shall any utility-mounted communications antenna exceed a height of 50 feet, as measured from the base of the pole structure to the top of all attached antenna, unless specifically authorized in this section. If the pole structure already exceeds 50 feet in height, the replacement pole shall not increase the height of the existing or former pole structure by more than 10 feet.
  - (d) Communications towers constructed outside of the street right-of-way shall be located a minimum of 100 feet from an existing dwelling on an adjacent lot.
- (3) Communications ancillary equipment shall comply with the following:
- (a) Communications towers and utility-mounted communications antennas shall contain communications ancillary equipment installed in a manner that will not inhibit pedestrian or vehicular movement, create safety hazards to, or otherwise inconvenience the use of a street right-of-way or other vehicular or pedestrian access way. All ancillary equipment shall be mounted on the tower or utility pole structure unless the applicant can demonstrate that this is not structurally feasible, in which case the ancillary equipment may be ground-mounted but shall not exceed 4 square feet in area and 84 inches in height.
  - (b) Ground-mounted communications ancillary equipment that will exceed 4 square feet in area or 84 inches in height shall comply with the following:
    - i. Ancillary equipment meeting the requirements of this section shall only be permitted for communications antennas and towers that are located outside of a street right-of-way.

- ii. The equipment and structures shall comply with the yard area requirements of the underlying zoning district in which the equipment is to be located. Where yard areas have been established for a detached accessory use, the equipment structures shall comply with these requirements so long as the equipment is to be freestanding or attached to another accessory use structure. Where no yard areas have been established for a detached accessory use, or if the equipment structures are attached to a principal use structure, the yard areas shall comply with the underlying zoning district for a principal use. A communications tower is to be considered a principal use structure.
- iii. A fence shall be required around all components of the communications ancillary equipment and shall be a minimum height of 8 feet. The fence shall be consistent with the provisions of §225-171.B of this chapter. Gates shall be locked, except during such times as the communications equipment is manned by operations or maintenance personnel.
- iv. An evergreen screen shall be required to surround the communications ancillary equipment and fence location. The screen shall consist of a row of evergreen trees which shall be planted at a maximum spacing of 8 feet, center to center. The evergreen screen shall be a minimum height of 4 feet at planting and shall be a species that is expected to grow to a minimum height of 15 feet at maturity. In addition, existing vegetation which would aid in screening at and around the site shall be preserved to the greatest extent possible.

(4) Additional design requirements.

- (a) New communications towers constructed within the street right-of-way shall comply with the requirements of §225-197.B.(14) to the greatest extent possible.
- (b) If the communications antenna and ancillary equipment are placed on an existing streetlight, traffic light, or utility pole, the communications antenna and communications ancillary equipment shall be painted, coated, or otherwise treated to match the existing supporting structure.
- (c) All materials of communications towers and utility-mounted communications antennas in the street right-of-way shall be subject

to approval by the Township, including review and approval by the Design Advisory Board if the tower or communications antenna is to be located within the boundaries of the Chocolate Avenue Preservation Overlay District.

- E. Communications towers greater than 50 feet in height. Communications towers greater than 50 feet in height shall be permitted by special exception in all zoning districts, except the Suburban Residential, Village Residential, Attached Residential, Multifamily Residential, Downtown Commercial, and Village Core zoning districts, in accordance with the requirements of §225-104.
- F. Co-location of communications antennas. Communications antennas that are to be located on a tower, building, utility pole, or other suitable structure that already contains an existing communications antenna shall be permitted in all zoning districts. All applications for such a facility shall include the following information:
  - (1) Elevation details shall be submitted to demonstrate the co-location of the communications antenna will comply with the following requirements:
    - (a) For communications antennas that are located in the street right-of-way, the co-located antenna shall not increase the height of the approved supporting structure by more than 10%, or by 10 feet, whichever is greater. For communications antennas located outside of the street right-of-way, the co-located antenna shall not increase the height of the approved supporting structure by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater.
    - (b) For communications towers, other than towers in the street right-of-way, no co-located antenna shall protrude from the face of the tower by more than 20 feet, or more than the width of the tower structure at the level of the proposed co-located antenna, whichever is greater. Co-located antenna on all other approved supporting structures shall not protrude from the face of the structure by more than six (6) feet.
    - (c) Any further increase in the height of an approved support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array, in accordance with the provisions of this section, shall not occur unless approved by the granting of a special exception by the Township Zoning Hearing Board. The applicant shall demonstrate the height increase will not negatively impact public safety with regard to the structural capacity of the supporting structure; that the additional antennas are necessary in order to fill a gap in coverage or provide the necessary capacity, as the case may be; and/or the increased

height is necessary in order to prevent interference from other antennas located on the structure.

- (d) The permitted height increase for a co-located antenna that will be separated horizontally from other antennas, such as building-mounted communications antennas, shall be measured from the actual building height, not from the height of any existing communications antennas.
- (2) The applicant shall submit detailed construction drawings indicating how the communications antenna will be mounted on the supporting structure, or portion thereof, as well as documents certifying that the communications antenna is designed to comply with wind and structural loading requirements of applicable technical, safety, and safety-related codes, including, but not limited to, the Township's Code of Ordinances, the American National Standards Institute (ANSI) Code, as amended, the National Electric Safety Code, as amended, and the National Electrical Code, as amended. Where conflict may occur between the codes, the most stringent requirement shall apply.
- (3) A site plan shall be submitted to show property and lease lines, existing and proposed access drives, communications ancillary equipment, or other site changes required to operate the co-located communications antennas. Any increase in dimensions to the communications antenna site area shall meet all setback and design requirements of §225-197.B of this chapter and the requirements of Chapter 174, Stormwater Management, of the Township of Derry Code of Ordinances, as applicable to the project.

**SECTION 43:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 44:** If any section, subsection, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

**SECTION 45:** The Board of Supervisors finds that this ordinance is consistent with the overall goals of the Derry Township Comprehensive Plan.