

**EAST GOSHEN TOWNSHIP  
PLANNING COMMISSION  
Meeting Agenda  
Wednesday, November 2, 2016  
7:00 PM**

- A. Call to Order / Pledge of Allegiance and Moment of Silence
- B. Chairman will ask if anyone is going to record the meeting
- C. Review of Tracking Log / Determine need for Workshop Meeting**
- D. Public Comment on Non-Agenda Items
- E. Approval of Minutes**
  - 1. October 5, 2016**
- F. Subdivision and Land Development Applications
  - 1. 1420 E. Strasburg Rd. (Brakman Property, SD/LD)
- G. Conditional Uses and Variances
- H. Ordinance Amendments**
  - 1. DAS – Distributed Antenna Systems**
- I. Old Business**
  - 1. Zoning Ordinance Review (Materials Distributed in June)**
    - a. §240-22 Signs, finalize**
- J. New Business
- K. 2016 Goals
- L. Any Other Matter
- M. Liaison Reports
- N. Correspondence

Newsletter Deadlines for 2016:

**Winter: November 1, 2016 to be delivered the 3<sup>rd</sup> week of December**

**Bold Items indicate new information to review.**

East Goshen Township Planning Commission  
Application Tracking Log

Application Name	Application (CU,LD,O, SD,V, SE, CA	Type (Sk, P, F)	Date Filed	Start Date	Date to Township Engineer	Date to CCPC	Date to Abutting Prop. / ABC's	Extension	PC NLT Action Date	BOS NLT Action Date	Hearing Date	Drop Dead date	Comments
1420 E. Strasburg Rd. / Brakman-Gunnison	SD/LD	P/F	5/18/16	6/1/16	5/19/16	5/19/16	5/20/16	2	1/4/17	1/17/17	NA	1/28/17	
<b>Bold = New Application or PC action required</b>													

Completed in 2016

1349 Morstein Rd / McDonald	CU	Sk	8/29/16	8/29/2016	NA	NA	9/1/16		<b>10/5/16</b>	10/18/16	10/18/16	10/28/16	Continued
907 Madison Dr	V	sk	7/20/16	7/20/16	na	NA	7/28/16		<b>8/3/16</b>	8/16/16	9/15/16	9/18/16	Continued
943 Cornwallis Drive	SD/LD	P/F	2/16/16	3/2/16	2/17/16	2/17/16	2/18/16	NA	5/11/16	5/31/16	NA	5/31/16	APPVD.
1325 Boot Rd. / SSPP Church	V	S	3/8/16	3/8/16	NA	NA	3/30/16	NA	<b>4/6/16</b>	4/5/16	4/28/16	5/7/16	Granted
814 N. Chester Rd. / Goshen Friends School	LD	S	2/25/16	3/2/16	NA	NA	2/26/16		NA	NA	NA	NA	APPVD.
1420 E. Strasburg Rd.	SD/LD	Sk	1/26/16	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
930 N. Chester Rd. / Gary and Paula Moore	SD	P/F	10/23/15	11/4/15	10/26/15	10/26/15	10/28/15		1/13/16	2/2/16	NA	2/2/16	APPVD.

**Draft**  
**EAST GOSHEN TOWNSHIP**  
**PLANNING COMMISSION MEETING**  
**October 5, 2016**

The East Goshen Township Planning Commission held a regularly scheduled meeting on Wednesday, October 5, 2016 at 7:00 p.m. at the East Goshen Township building. Members present were: Chairman Adam Knox, Lori Kier, Jim McRee, Dan Daley, Monica Close, and Brad Giresi. Also present was Mark Gordon, Township Zoning Officer and Janet Emanuel, Township Supervisor.

**COMMON ACRONYMS:**

<i>BOS – Board of Supervisors</i>	<i>CPTF – Comprehensive Plan Task Force</i>
<i>BC – Brandywine Conservancy</i>	<i>CVS – Community Visioning Session</i>
<i>CB – Conservancy Board</i>	<i>SWM – Storm Water Management</i>
<i>CCPC – Chester Co Planning Commission</i>	

**A. FORMAL MEETING – 7:30 pm**

1. Adam called the meeting to order at 7:30 pm. He led the Pledge of Allegiance and a moment of silence to remember our troops.
2. Adam asked if anyone would be recording the meeting and if there were any public comments about non-agenda items. There was no response.
3. Adam reviewed the Tracking Log and determined no need for a workshop
4. Adam noted that the minutes of the September 7, 2016 meeting were approved as amended.

**B. SUBDIVISION & LAND DEVELOPMENT**

1. 1420 E Strasburg Road (Subdivision/Land Development) – Mark noted that the applicant/developer had, on July 26, 2016, submitted a letter granting a 60 day extension to the Board of Supervisors.

**C. CONDITIONAL USE/VARIANCES**

1. 1349 Morstein Rd (Conditional Use – Home Occupation) John McDonald and Gina McDonald, homeowners, were present. Mr. McDonald thanked the Planning Commission members and residents for their time. He reviewed the edited narrative he submitted after the last meeting. This gave more detail about how the home occupation will operate. He also mentioned that this will be a part-time job for him. He already has a full-time job.

**Commission Member Comments:**

Monica – asked about the delay process. Mr. McDonald responded that PA State Police must respond within 15 days.

Lori – asked if he considered internet only occupation. Mr. McDonald responded that only special cases will be done at his home.

Jim – asked about the reference to “owners” in the narrative. Mark stated that Mr. McDonald is the applicant.

Brad – asked about vehicular ingress and egress. Mr. McDonald responded that there is space at the bottom of his driveway where cars can turn around easily even with 2 cars parked there.

Dan – asked about signing for deliveries. Mr. McDonald responded that all delivery services require an adult signature. They won’t leave the package without a signature.

Dan – asked about inspections. Mr. McDonald responded that the ATF can come once a year unannounced to do an audit. The PA State Police can come any time as often as they want.

Hours of operation were discussed. Friday 10-3 is for the ATF. Appointments between 9-5 Mon-Sat.

He will accept a condition of 1 in home transaction per day. He feels there will only be 1 transaction per month but doesn’t want to commit to that.

1 Brad commented that the intent is not to limit his business but to limit the amount of vehicular traffic.

2  
3 Public Comments:

4 Gary Zenker, 1243 Eastwick Circle – He is concerned about guns being delivered to the house and bad  
5 things that can happen in the neighborhood if they are stolen. He feels something more secure needs to be  
6 done to make it safe.

7 Alan Tompkins, 1303 Barkway Lane – He commented that many of the residents are unhappy with this  
8 request. He asked what the Township will do about accessing the amount of unhappiness and how will it  
9 be presented to the BOS.

10 Monica Holland, 1230 Waterford Road – She asked if the fact that the community is unhappy has any  
11 impact on the Commission's decision. She pointed out that with internet orders that come to him, this  
12 could still be for a stranger.

13 Lisa Kilheffer, 240 Corwen Terrace, West Whiteland Township – She asked if the hours of operation  
14 could be based on the times the school buses are there. Mr. McDonald explained that the bus has to stop  
15 at his driveway to pick up his children because there are no sidewalks. He will agree to school bus hours  
16 if needed. He feels that most firearm customers prefer to go to a store and not have to wait for the process  
17 he has to go through to approve them. No firearms come with ammo.

18 She also asked if this has to be disclosed when someone in the neighborhood is selling their home. The  
19 answer was yes.

20 She also asked if he will be participating in gun shows. Mr. McDonald answered no.

21 Ron Heier, 1405 Allan Lane – He pointed out that there is no mention of the ingress/egress in the  
22 conditions on the draft motion. Mark will add this.

23 Lou Ann Atkinson, 1305 Barkway Lane – She asked if the name of his business will reference firearms  
24 and will the Morstein address show. Mr. McDonald answered that the name of his business will be  
25 Capital City Arms. The address will not be on his website but all information will be on the ATF  
26 website.

27 Dwight Morrow, 1230 Waterford Road – He asked what types of guns will be involved. Mr. McDonald  
28 answered semi-automatic handguns.

29 Julieta Calmon, 1549 Tanglewood Drive – She spoke with Westtown East Goshen Police Chief Brenda  
30 Bernot who told her federal regulations do require a safe. Mr. McDonald answered that he does have a  
31 safe and will use it when necessary.

32 Louis Giangliulio, 1242 Waterford Road – Asked what special conditions will the Township impose for  
33 safety. Adam commented that he is comfortable with the safe in a locked room and restricted hours.

34 Jim recommended that the residents report anything unusual to the Township.

35 Brad read the section from the ordinance, which states that the permit is annual and an inspection will be  
36 done at that time.

37  
38 Adam moved that the Planning Commission recommend that the Board of Supervisors approve the  
39 conditional use application for the home occupation of Mr. McDonald at 1349 Morstein Road, West  
40 Chester, PA 19380 with the following conditions:

41 1. Applicant shall adhere to all testimony and evidence presented at the conditional use hearing.

42 2. Applicant shall maintain his federal firearms license issued by the Bureau of Alcohol,  
43 Tobacco and Explosives.

44 3. Applicant shall only sell or transfer the type of firearms permitted by his federal license.

45 4. Applicant shall maintain a license to sell firearms issued by the Commonwealth of  
46 Pennsylvania.

47 5. Applicant shall comply with any other applicable federal, state or local licenses or permits  
48 necessary to operate as a firearms dealer at all times while conducting the home occupation.

49 6. Applicant shall store the firearms in a safe until the customer has passed the background  
50 check and all paperwork is completed.

51 7. If deliveries of firearms are made to Applicant's home address by the USPS, UPS, Federal  
52 Express or another similar delivery carrier, Applicant or his wife must personally sign for the delivery.

- 1           8. Applicant shall adhere to all applicable federal laws and regulations and state and local  
2 ordinances in the operation of the home occupation.  
3           9. The hours of operation for the business shall be by appointment only between 9 am – 5 pm;  
4 Monday to Saturday.  
5           10. Applicant shall limit the number of home customers to one per day.  
6           11. Applicant shall demonstrate to the Township Zoning Officer safe ingress/egress to his  
7 location.

8  
9 Jim seconded the motion. Discussion:

10 Don Houser, 1347 Morstein Road – He asked the commission members one question – Would you want  
11 this in your neighborhood?

12 Jim pointed out that there was reference to “owners” in the narrative. After discussion, it was decided  
13 that the motion will be amended to add Gina McDonald as an applicant. The word “applicant”  
14 throughout the motion will be changed to “applicants”.

15 Adam moved to accept these changes. Jim seconded the motion to amend the original motion.  
16 The motion passed unanimously.

17  
18 Mark announced that the Conditional Use Hearing will be held at the Board of Supervisors’ meeting on  
19 October 18 at 7:00 p.m. He also explained the process to the residents.  
20

#### 21 **D. OLD BUSINESS**

22           1. DAS Ordinance - Mark met with representatives of Crown Castle. They are proposing 6  
23 sites in the Township (near the High School, in the Corporate Park, at Wellington and the Giant shopping  
24 center). They discussed the right of way agreement. We should hear back from the County shortly. Dan  
25 added that Crown Castle showed them pictures of the different types of systems. Right now Verizon is  
26 the primary user and they can add 3 more.

27           2. Zoning Ordinance Review – Signs – Tabled until the November meeting.  
28

#### 29 **E. LIAISON REPORT**

30 Board of Supervisors - Janet mentioned that they discussed this home occupation request and they feel  
31 certain types of businesses should not be permitted in residential areas. They want the Planning  
32 Commission to amend the ordinance to disallow certain types of businesses as home occupations.  
33

#### 34 **F. ADJOURNMENT**

35           There being no further business, the meeting adjourned at 9:10 pm. The next regular meeting will  
36 be held Wednesday, November 2, 2016 at 7:00 pm.  
37

38  
39 Respectfully submitted, \_\_\_\_\_

40 *Ruth Kiefer, Recording Secretary*

# Memorandum

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**East Goshen Township**

**1580 Paoli Pike**

**West Chester, PA 19380**

Voice: 610-692-7171

Fax: 610-692-8950

E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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Date: 10/27/2016

To: Board of Supervisors

Planning Commission

From: Mark Gordon, Township Zoning Officer *mob*

Re: DAS Ordinance

Dear Supervisors and Commissioners,

The Wireless Communications Ordinance that you both reviewed in September has received a clean letter for the CCPC and is ready to move forward for adoption.

Upon your review and approval the Township solicitor will advertise the ordinance and schedule a hearing for December 13, 2016.

I have provided the clean copy of the proposed ordinance amendment for your information and use.

**The timing of your meetings poses a small challenge since the PC meets before the BOS however I have addressed it in the drafted motions below.**

**Draft Motion for B of S:**

Mr. Chairman, I move that we direct the staff and solicitor to schedule and advertise a hearing to consider this amendment to the zoning ordinance for Wireless Communications; with the following condition:

1. The Board of Supervisors considers any final suggestions from the Planning Commission.

**Draft Motion for the PC:**

Mr. Chairman, I move that the Planning Commission support this amendment to the Wireless Communications section of the Zoning Ordinance and recommend that the Board of Supervisors move forward with its adoption.

# Memorandum

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East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

Voice: 610-692-7171  
Fax: 610-692-8950  
E-mail: [mgordon@eastgoshen.org](mailto:mgordon@eastgoshen.org)

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# THE COUNTY OF CHESTER



## COMMISSIONERS

Terence Farrell  
Kathi Cozzone  
Michelle Kichline

Brian N. O'Leary, AICP  
Executive Director

## PLANNING COMMISSION

Government Services Center, Suite 270  
601 Westtown Road  
P. O. Box 2747  
West Chester, PA 19380-0990  
(610) 344-6285 Fax (610) 344-6515

October 11, 2016

Louis F. Smith, Jr., Manager  
East Goshen Township  
1580 Paoli Pike  
West Chester, PA 19380

Re: Zoning Ordinance Amendment - Wireless Communications Facilities  
# ZA-09-16-14439 - East Goshen Township

Dear Mr. Smith:

The Chester County Planning Commission has reviewed the proposed Zoning Ordinance Amendment as submitted pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Section 609(e). The referral for review was received by this office on September 12, 2016. We offer the following comments to assist in your review of the proposed amendment.

### DESCRIPTION:

1. East Goshen Township proposes the following amendments to its Zoning Ordinance:
  - A. Add definitions for the following terms to Section 240-6.B: Abandon or Abandonment; Distributed Antenna Systems (DAS); Emergency; FCC; Monopole; Related Equipment; Stealth Technology; Substantially Change; and Wireless;
  - B. Add subsection [4]-Standards for Commercial Communications Antennae in the Public Road Rights-of-way to Section 240-31.C(3)(h), Wireless Communications Facilities; and
  - C. Add subsection [5]-Standards for Wireless Communications Facilities in the Public Road Rights-of-way to Section 240-31.C(3)(h). We note that Attachment 4 - Aerial Utility Roadway, as referenced in proposed Section 240-31.C(3)(h)[5].b.i.3, was included in the amendment submission to the County Planning Commission.

### COMMENTS:

2. In its review of the proposed wireless communication facilities standards, the Township should recognize that the Federal Communications Commission (FCC) adopted new wireless facility rules, which officially went into effect on February 9, 2015. The new FCC rules, which address issues such as the modification of previously approved wireless facilities and support structures, along with the timing of review notifications and approvals, are currently available online at: <http://www.gpo.gov/fdsys/pkg/FR-2015-01-08/pdf/2014-28897.pdf>.

**RECOMMENDATION:** East Goshen Township should ensure the proposed standards are consistent with all applicable FCC rules before acting on the proposed zoning ordinance amendment.

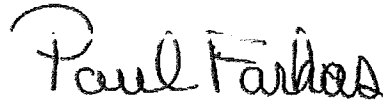
Page: 2

Re: Zoning Ordinance Amendment - Wireless Communications Facilities

# ZA-09-16-14439 - East Goshen Township

We request an official copy of the decision made by the Township Supervisors, as required by Section 609(g) of the Pennsylvania Municipalities Planning Code. This will allow us to maintain a current file copy of your ordinance.

Sincerely,

A handwritten signature in black ink that reads "Paul Farkas". The signature is written in a cursive style with a large, looping 'P' and 'F'.

Paul Farkas  
Senior Review Planner

**TOWNSHIP OF EAST GOSHEN  
CHESTER COUNTY, PENNSYLVANIA**

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

**AN ORDINANCE OF THE TOWNSHIP OF EAST GOSHEN, CHESTER COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF EAST GOSHEN TOWNSHIP, AS CODIFIED AT CHAPTER 240 OF THE EAST GOSHEN TOWNSHIP CODE; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR ADDITIONAL DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF WIRELESS COMMUNICATIONS FACILITIES WITHIN THE PUBLIC ROAD 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 Board of Supervisors of the Township of East Goshen, Chester County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

**SECTION I. Purposes and Findings of Fact.**

- A. The purpose of this Ordinance is to maintain uniform standards for the siting, design, permitting, maintenance, and use of antennae and non-traditional wireless communications towers in East Goshen Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this Ordinance, the Township intends to:
  - a. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
  - b. Establish procedures for the design, siting, construction, installation, maintenance and removal of wireless communications facilities in the Township, including facilities both inside and outside the public road rights-of-way;

- c. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable wi-fi and other wireless communications facilities;
- d. Treat each communications services provider in a nondiscriminatory and competitively neutral manner in exercising the Township's authority; and
- e. Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

## **SECTION II. Definitions.**

Section 240-6 of the East Goshen Township Zoning Ordinance is hereby amended to include the following definitions to the "Definitions" section in Part B:

1. *Abandon* or *Abandonment* – The permanent cessation of all uses of a wireless communications facility or a commercial communications antenna.
2. *Distributed Antenna Systems (DAS)*— A network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure. Also known as Small Cell Networks.
3. *Emergency*— A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Rights-of-Way to be unusable and result in loss of the services provided.
4. *FCC*— Federal Communications Commission.
5. *Monopole*— A wireless communications facility or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications Antennae and connecting appurtenances.
6. *Related Equipment*— Any piece of equipment related to, incident to, or necessary for, the operation of a Wireless Communications Facility, either Tower or Antenna. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.
7. *Stealth Technology*—Camouflaging methods applied to wireless communications facilities and antennae which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennae, building-mounted Antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
8. *Substantially Change*—(1) Any increase in the height of a Wireless Support Structure 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, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth herein if necessary to avoid interference with existing Antennae; or (2) any further increase in the height of a Wireless 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.

9. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

### **SECTION III. Amendment**

Section 240-31.C.(3)(h) of the East Goshen Township Zoning Ordinance is hereby amended to include Section IV as subsection [4] and section V as subsection [5] following the current subsection [3] for wireless communication facilities standards.

### **SECTION IV. Standards for Commercial Communications Antennae in the Public Road Rights-of-Way**

[4.] Commercial communications antennae in the public rights-of-way.

- a. Standards for commercial communications antennae erected in the public rights-of-way. All applicants seeking to construct, erect, or relocate a commercial communications antenna shall comply with the following regulations. A written narrative that addresses how the applicant will meet each of the regulations listed below shall be submitted with the conditional use application, unless the proposed facility falls under the provisions of the Pennsylvania Wireless Broadband Colocation Act.
- b. Conditional use application. A conditional use application shall be completed by any applicant desiring to place a commercial communications antenna in the public road rights-of-way ("ROW"). The application shall be submitted to the Township Zoning Office and shall demonstrate that the proposed facility meets all of the following specifications:
  - a. Co-location, Location and Siting.
    - i. Co-location. Commercial communications antennae in the ROW shall be located on existing utility poles that already have commercial communications antenna. If such location is not technologically feasible, the Applicant shall locate its commercial communications antennae on existing poles that do not already have antenna attached to it.

- ii. Location. Commercial communications antennae in the ROW are permitted in all zoning districts subject to the restrictions and conditions prescribed below.
- iii. Siting.
  - 1. Prohibited on Certain Structures. Commercial communications antennae shall not be located on any building in the ROW.
- iv. Design regulations.
  - 1. Antenna installations located above the surface grade in the ROW including, but not limited to, those on 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.
  - 2. Antennae and all support equipment shall be treated to match the supporting structure. Facilities and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
  - 3. Equipment location. Commercial communications antennae and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
    - a. Ground-mounted equipment and electrical meter cabinets shall be screened, if deemed appropriate and if done in a manner that does not impact sight line distances, through the use of landscaping or other decorative features to the satisfaction of the Township.
    - b. Any proposed underground vault related to commercial communications antennae shall be reviewed and approved by the Township.
- v. Public safety communications. The applicant shall submit proof that the proposed antenna will not interfere with public safety communications or the reception of broadband, television, radio or other communication services.

- c. Relocation or Removal. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of an antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any antenna when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- i. The construction, repair, maintenance or installation of any Township or other public improvement in the ROW; or
  - ii. The operations of the Township or other governmental entity in the ROW; or
  - iii. Vacation of a street or road; or
  - iv. An Emergency as determined by the Township.
- d. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a commercial communications antenna, the applicant shall provide to the Township financial security sufficient to guarantee the removal of the proposed antenna. The applicant shall submit an estimate of such removal costs to the Township Engineer for review and approval of same. Said financial security shall remain in place until the antenna is removed.
- e. Standard of care. Any commercial communications antenna covered by this ordinance shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. All antennae shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- f. Wind. Any commercial communications antennae shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E Code, as amended).
- g. Maintenance. The commercial communications antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair. Such maintenance shall be performed to ensure the upkeep of the facility in

order to promote the safety and security of the Township's residents. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

- h. Radio Frequency Emissions. No commercial communications antenna may, by itself or in conjunction with other antennae, 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.
- i. Abandonment. In the event that use of a commercial communications antenna is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned antennae or shall be removed as follows:
  - i. All abandoned or unused antennae and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
  - ii. If the antenna is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the antenna and any related equipment may be removed by the Township and the cost of removal assessed against the owner of the antenna.
- j. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all commercial communications antennae in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- k. Insurance. Each Person that owns or operates a commercial communications antenna shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the commercial communications antenna.
- l. Indemnification. Each Person that owns or operates a commercial communications antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the

commercial communications antenna. Each Person that owns or operates a commercial communications antenna shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a commercial 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.

- m. Co-locations and modifications that fall within the provisions of the Pennsylvania Wireless Broadband Collocation Act or amendments thereto or similarly applicable federal statutes.
  - a. Section 4 (a-d) shall not apply to facilities which are governed by the Pennsylvania Wireless Broadband Collocation Act. To the extent permitted by law, the remaining provisions in Section 4 (e-l) shall apply to co-location applicants desiring to place new antennae on existing wireless communications facilities, as well as those applicants desiring to modify existing facilities. Any applicant proposing the colocation or modification of a commercial communications antenna shall submit a building permit to the Township Zoning Office.
  - b. Timing. Within thirty (30) calendar days of the date that an application for a Commercial communications antenna is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety (90) day review period.

## **Section V. Standards for Wireless Communications Facilities in the Public Road Rights-of-Way**

### **[5]. Wireless communications facilities in the public rights-of-way**

- a. Standards for wireless communications facilities erected in the public rights-of-way. All applicants seeking to construct, erect, or relocate a wireless communications facility shall comply with the following regulations. A written narrative that addresses how the applicant will meet each of the regulations listed below shall be submitted with the conditional use application.
- b. Conditional use application. A conditional use application shall be completed by any applicant desiring to erect wireless communications facilities in the public

ROW. The application shall be submitted to the Township Zoning Officer and shall demonstrate that the proposed facility meets all of the following specifications:

i. Location and Height.

1. Maximum Height. Wireless communications facilities greater than forty-five (45') feet in height shall be prohibited in the public rights-of-way. An increased height - not to exceed fifty-five (55') feet - may be permitted if shown by the Applicant to be necessary to provide increased capacity and adequate coverage in that service area.
2. Height Extensions. Any height extensions (not co-locations) to an existing wireless communications facility shall require prior approval of the Township, and shall not increase the overall height of the facility to more than forty-five (45') feet unless shown to be warranted as set forth in subsection 1 immediately above. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
3. Location. Wireless communications facilities forty-five (45') feet or shorter in height (or fifty-five (55') feet or shorter in height if warranted as described above) shall be permitted within the ROW of the roads as listed and specifically described in Attachment 4 – Aerial Utility Roadways – found under the General References section of Chapter 240: Zoning.

ii. Design Regulations.

1. Stealth Technology. The wireless communications facility shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the applicant shall be subject to the approval of the Township.
2. Other antennae. Any proposed wireless communications facility shall be designed structurally, electrically, and in all respects to accommodate multiple licensed wireless service providers.
3. Aviation Safety. Commercial communications antennae shall comply with all federal and state laws and regulations concerning aviation safety.

4. Signs. The proposed facility 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.
5. Lighting. No wireless communications facility 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.
6. Radio Frequency Emissions. No wireless communications facility may, by itself or in conjunction with other facilities in its respective vicinity, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
7. Wind. All wireless communications facilities shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E, as amended).

iii. Gap in Coverage.

1. Unless exempt from this requirement by Federal law, an applicant for a wireless communications facility must demonstrate that a gap in coverage and/or demand for increased capacity exists or is anticipated within 12 months and that the type of facility being proposed is the least intrusive means by which to fill that gap and/or increase the capacity of wireless coverage..
2. The existence or non-existence of a gap in wireless coverage may be a factor in the Township's decision on an application for approval of wireless communications facilities in the ROW, at the Board's discretion.

iv. Co-location and Strategic Siting.

1. Co-location. An application for a new wireless communications facility shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed

facility cannot be accommodated on an existing or approved structure or building.

- a. The applicant shall demonstrate that it contacted the owners of tall structures and towers located within ROWS in the applicable service area required in order for the applicant to provide the increased capacity needed, and permission to install an Antenna was denied for one or more of the following reasons:
  - i. 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.
  - ii. 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.
  - iii. 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.
  - iv. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- b. Strategic Siting. Wireless communications facilities and Related Equipment shall not interfere with, displace, damage or destroy, any other facilities, including but not limited to, sewers, gas or water mains, pipes, cables, or conduits.
- v. Equipment Location. The applicant shall at all times comply with and abide by all applicable regulations governing wireless communications facilities. Accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
  1. In no case shall ground-mounted equipment, walls, or landscaping be located within 16 inches of the face of the curb.

2. Ground-mounted equipment that cannot be located underground shall be screened, if deemed appropriate and in a manner that does not impact sight lines for traffic, through the use of landscaping or other decorative features to the satisfaction of the Township.
  3. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  4. Any graffiti on the wireless communications facility or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
  5. Any underground vaults related to wireless communications facility shall be reviewed and approved by the Township.
- vi. Written Commitment. As a condition of approval for all wireless communications facilities in the ROW, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on its wireless communications facilities where technically and economically feasible. The owner of a wireless communications facility shall not install any additional antennae without obtaining the prior written approval of the Township, so long as such antennae do not fall within the categories of permitted modifications or co-locations in the Wireless Broadband Collocation Act.
- vii. Miscellaneous Information.
1. Highway Occupancy Permit. The applicant shall obtain and provide the Township with a copy of the Highway Occupancy Permit from either Penn DOT or the Township as applicable.
  2. FCC License. If applicable, the applicant shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator any facilities located in the Township.
- viii. Restoration. After completion of any maintenance, placement, installation, or removal of any wireless communications facility in the ROW, the owner of such facility shall, at its own expense, restore the ROW to its original condition within twenty-five (25) days, or such longer period as may reasonably be required.
- c. Standard of care. All wireless communications facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict

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

- d. Maintenance Standards. The following maintenance requirements shall apply: all wireless communications facilities shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair; such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents; all maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- e. Time, Place and Manner. The installation shall be in accordance with the requirements of the Highway Occupancy Permit issued for the facility.
- f. Reservation of Rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any wireless communications facility for numerous factors, which include but are not limited to, visual impact, design, and safety standards.
- g. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of wireless communications facility in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any wireless communications facility when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
  - i. The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
  - ii. The operations of the Township or other governmental entity in the right-of-way;
  - iii. Vacation of a street or road or the release of a utility easement; or
  - iv. An Emergency as determined by the Township.

- h. Notice of Transfer, Sale or Assignment. If the owner of a wireless telecommunications facility in the ROW sells, transfers or assigns those facilities to another party, the transferee, buyer or assignee shall be obligated to comply with the regulations set forth in this Ordinance. Notice of the transfer, sale or assignment shall be provided to the Township within thirty (30) days of the effective date of the transfer, sale or assignment. Such notice shall include the contact information for the transferee, buyer or assignee.
- i. Insurance. Each Person that owns or operates a wireless communications facility shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each facility.
- j. Indemnification. Each Person that owns or operates a wireless communications facility shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the facility. Each Person that owns or operates a wireless communications facility 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 facility. 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.
- k. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a wireless communications facility, the applicant shall provide to the Township financial security sufficient to guarantee the removal of the proposed wireless communications facility. The applicant shall submit an estimate of such removal costs to the Township Engineer for review and approval of same. Said financial security shall remain in place until the facility is removed.

## **SECTION VI. Miscellaneous**

- a. Police Powers. The Township, by granting any permit or taking any other action pursuant to this Chapter, does not waive, reduce, lessen, impair, or otherwise limit the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.
- b. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent

jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.

- c. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of East Goshen Township.

ENACTED AND ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

**EAST GOSHEN TOWNSHIP  
BOARD OF SUPERVISORS:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman