

Part 19 | Telecommunications Towers and Facilities Overlay District

§ 27-1901 Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed the Borough's authority concerning the placement, construction and modification of wireless telecommunications facilities. The Borough finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Borough and its inhabitants. The Borough also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Borough and of significant benefit to the Borough and its residents. In order to insure that the placement, construction or modification of wireless telecommunications facilities is consistent with the Borough's land use policies, the Borough is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this Part is to minimize impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of the visual and environmental impacts of such facilities, and protect the health, safety and welfare of the Borough of Hatboro.

§ 27-1902 Definitions.

For purposes of this Part, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number.

ACCESSORY FACILITY OR STRUCTURE

An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities including, but not limited to, utility or transmission equipment storage sheds or cabinets.

ANTENNA

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

APPLICANT

Any wireless service provider submitting an application for a permit for wireless telecommunications facilities.

APPLICATION

All necessary and appropriate documentation that an applicant submits in order to receive a permit for wireless telecommunications facilities.

CAMOUFLAGE

Disguising a tower or wireless telecommunications facility so as to make it less visually obtrusive and not recognizable to the average person as a wireless telecommunications facility.

CO-LOCATION

The use of an existing tower or structure to support antenna for the provision of wireless services.

COMMERCIAL IMPRACTICABILITY OR COMMERCIALLY IMPRACTICABLE

The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercial impracticable" and shall not render an act or the terms of an agreement "commercially impracticable."

COMMISSION

The Borough Council of Hatboro.

COMMONWEALTH

The Commonwealth of Pennsylvania.

COMPLETED APPLICATION

An application that contains all information and/or data required by this Part and necessary to enable an informed decision to be made with respect to an application.

DAS OR DISTRIBUTIVE ACCESS SYSTEM

A technology using antenna combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas.

FAA

The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC

The Federal Communications Commission, or its duly designated and authorized successor agency.

HEIGHT

When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

MODIFICATION OR MODIFY

The addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NEED

Anything that is technically required for the wireless service to be provided primarily and essentially within the Borough of Hatboro and creates the least physical and visual impact. This does not necessarily mean the internal design standards of the applicant, as companies' standards can vary greatly and normally reflect preferences. Rather, need relates to the ability of the user-equipment to function as designed.

NIER

Nonionizing electromagnetic radiation.

PERMIT

The official document by which an applicant is allowed to file for a building permit to construct and use wireless telecommunications facilities as granted or issued by the Borough of Hatboro. A permit issued under authority of this Part shall constitute a conditional use permit and shall be subject to the permit requirements specified in Part 22 of this chapter.

PERSON

Any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.

PERSONAL WIRELESS FACILITY

See definition for "wireless telecommunications facilities."

PERSONAL WIRELESS SERVICES OR PWS OR PERSONAL TELECOMMUNICATIONS SERVICE OR PTS

The same meaning as defined and used in the 1996 Telecommunications Act.

REPAIRS AND MAINTENANCE

The replacement or repair of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

STEALTH TECHNOLOGY

To minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a wireless telecommunications facility, which shall mean using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Stealth technology expressly includes such technology as DAS or its functional equivalent.

TELECOMMUNICATION SITE

See definition for "wireless telecommunications facilities."

TELECOMMUNICATIONS

The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS STRUCTURE

A structure used in the provision of services described in the definition of "wireless telecommunications facilities."

TEMPORARY

Temporary in relation to all aspects and components of this Part, something intended to, or that does, exist for fewer than 90 days.

TOWER

Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

WIRELESS TELECOMMUNICATIONS FACILITIES

Includes a "telecommunications site" and "personal wireless facility." It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types, kinds and structures, including, but not limited to, buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

§ 27-1903 Overall Policy and Desired Goals for Permits for Wireless Telecommunications Facilities.

1. In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the Borough's health, safety, public welfare,

environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Part, the Borough hereby adopts an overall policy with respect to any permit issued for wireless telecommunications facilities for the express purpose of achieving the following goals:

- A. Requiring a conditional use permit for any new, co-location or modification of a wireless telecommunications facility.
- B. Implementing an application process for person(s) or entities seeking a permit for wireless telecommunications facilities.
- C. Establishing a policy for examining an application and issuing a permit for wireless telecommunications facilities that is both fair and consistent.
- D. Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
- E. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner including, but not limited to, the use of stealth technology, as to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities.
- F. In granting a permit, the Borough has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the Borough.

§ 27-1904 Exceptions From a Permit for Wireless Telecommunications Facilities.

1. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless telecommunications facility as of the effective date of this Part without having first obtained a permit for a wireless telecommunications facility as defined in § 27-1902 of this chapter. Notwithstanding anything to the contrary in this section, no permit shall be required for those noncommercial exceptions noted in this section, unless deemed in the public interest by the Borough of Hatboro.
2. If constructed as required by a permit, all legally permitted wireless telecommunications facilities that existed on or before the effective date of this Part shall be allowed to continue as they presently exist; provided, however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Part, as will anything changing the structural load.
3. Any repair and/or maintenance of a wireless facility shall not require an application for a permit. However, no additional construction or site modification shall be permitted.

4. Notwithstanding any other provisions of this section and all subparts thereof, the co-location and/or shared use of antennas on existing telecommunication towers or other tall structures or compatible use structures, such as utility poles, water towers, and other towers, shall be exempt from the public hearing requirement otherwise required for a tower, and shall be subject only to an administrative review process by the Borough and its designee.

§ 27-1905 Exclusions.

1. The following shall be exempt from this Part:
 - B. The Borough's fire or other public service facilities owned and operated by the Borough.
 - C. Any facilities expressly exempt from the Borough's siting, building and permitting authority.
 - D. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multi-channel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception, but not including microwave dishes.
 - E. Facilities used exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial telecommunications.
 - F. Facilities used exclusively for providing very low powered unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g., Bluetooth) where the facility does not require a new tower, but not including facilities used commercially.

§ 27-1906 Location of Wireless Telecommunications Facilities.

1. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one being the highest priority and five being the lowest priority:
 - A. On existing towers or other structures on Borough-owned property or Borough-owned facilities that already contain fewer than five existing antenna arrays or other wireless facilities and without increasing the height.
 - B. On existing towers that already contain fewer than five existing antenna arrays or other wireless facilities and without increasing the height.
 - C. On existing structures in LMX or IN districts that already contain fewer than five existing antenna arrays or other wireless facilities without increasing the height of the structure.
 - D. On new towers or structures in LMX or IN districts.
 - E. On existing utility poles in any area of the Borough without surpassing the existing height of the pole by more than six feet.
2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and justification must be provided as to why a site of all higher priority designations was not selected.

Commented [JM1]: Changed from HI, HI-MU, or LI

Commented [JM2]: Changed from HI, HI-MU, or LI

3. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected or because there is an existing lease with a landowner. An application shall address co-location as an option. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of hardship.
4. Notwithstanding the above, the Borough may approve any site located within an area in the above list of priorities, provided that the Borough finds that the proposed site is in the best interest of the health, safety and welfare of the Borough and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. Conversely, the Borough may direct that the proposed location be changed to another location that is more in keeping with the goals of this Part and the public interest as determined by the Borough.
5. The applicant shall submit to the Borough a detailed written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection.
6. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Borough may disapprove an application for any of the following reasons:
 - A. Conflict with safety and safety-related codes and requirements.
 - B. Conflict with the historic nature or character of a neighborhood or district.
 - C. The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation.
 - D. The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Borough, or employees of the service provider or other service providers.
 - E. The placement and location of a wireless telecommunications facility that would result in a conflict with or compromise in or change the nature or character of the surrounding area.
 - F. Conflict with the provisions of this Part or other applicable laws, ordinances, codes and regulations.
 - G. Failure to submit a complete application as required under this Part.
 - H. Conflict with the health, safety and welfare of the Borough and its inhabitants.
7. The Borough may require the relocation of a proposed site, or may require the use of more than one site to provide substantially the same service if the relocation would result in a less intrusive facility or facilities, singly or in combination.

§ 27-1907 Shared Use of Wireless Telecommunications Facilities and Other Structures.

1. The Borough requires wireless facilities to be located on existing towers or other suitable structures without increasing the height of the Tower or structure, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying all existing towers and other suitable structures within one mile of the location of any proposed new tower.

2. An applicant intending to locate on an existing tower or other suitable structure shall be required to submit proof of an agreement with the existing owner to permit its use by the applicant.
3. To minimize the profile of the array, such shared use shall consist only of the minimum antenna array, including the minimum size technologically required to provide service within the Borough.

§ 27-1908 Height of Telecommunications Tower(s).

1. All new towers shall be of the monopole type. No new towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.
2. The applicant shall submit documentation justifying the technical need by the service provider for the total height of any tower, facility or antenna requested and the basis therefor. To enable verification of the need for the requested height, documentation in the form of propagation studies shall include all data used to produce the studies at the height requested and at a minimum of 10 feet lower height. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Borough.
3. The maximum permitted total height of a new tower shall be 80 feet above preconstruction ground level, unless it can be proven that such height would prohibit the provision of service in the intended service area. The maximum permitted height is not as-of-right height, but rather the maximum permitted height, absent proof of the technological need for a greater height.
4. Notwithstanding the 80 feet maximum permitted height, telecommunications towers and facilities shall be no taller than the minimum height technologically necessary to enable the provision of wireless service coverage or capacity as needed primarily and substantially within the Borough.
5. Spacing or the distance between towers shall be such that the service may be provided without exceeding the maximum permitted height.

§ 27-1909 Visibility of Wireless Telecommunications Facilities.

1. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by applicable federal rules and regulations.
2. Camouflage. To the extent not commercially impracticable, all new wireless telecommunications facilities including, but not limited to, towers, shall utilize camouflage techniques and technology.
3. Dual Mode. In order to minimize the number of antenna arrays and their visual impact, the Borough may require the use of dual mode antennas.
4. Tower Finish/Color. Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to be determined by the Borough and shall be maintained in accordance with the requirements of this Part and, if applicable, federal rules and regulations.
5. Flush Mounting. All new or replacement antennas, except omnidirectional whip antennas, shall be flush-mounted on any tower or other structure or as close to flush-mounted as is technically feasible.

6. Placement on Building-Facie. If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, texture of the building, or in a manner so as to make the antennas as visually innocuous and undetectable as is possible.
2. Lighting. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under Commonwealth of Pennsylvania and federal regulations. For any wireless facility for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12° vertical for a distance of at least one mile in a level terrain situation.
3. In the event a tower that is lighted is modified, at the time of the modification the Borough may require that the tower be retrofitted with the technology set forth in the preceding Subsection 7.
4. Existing towers that are lighted shall comply with the requirements of this section upon any modification to the tower.

§ 27-1910 Security of Wireless Telecommunications Facilities.

1. All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:
 - B. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to the public.
 - C. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

§ 27-1911 Signage.

Notwithstanding the provisions of Part 18 of this chapter, wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration shall also be installed. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

§ 27-1912 Lot Size and Setbacks.

1. All proposed towers and any other proposed wireless telecommunications facility attachment structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of

the tower or structure, otherwise known as the fall zone, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone or setback shall be measured from the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile.

2. There shall be no development of habitable buildings within the fall zone or setback area set forth in the preceding Subsection 1.

§ 27-1913 Retention of Expert Assistance and Reimbursement by Applicant.

1. Applicant shall deposit with the Borough funds (the "escrow account") as set forth in the fee schedule of the Borough. If at any time the escrow account falls below the required amount, all work shall immediately cease until the applicant is authorized by the Borough to continue. Any unused balance in the escrow account, as determined by the Borough, shall be refunded to applicant at the conclusion of the project.
2. The Borough may hire any consultant or expert necessary to assist the Borough in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.
3. A 10% administrative charge shall be added to all applicable fees and deducted from the escrow account. The initial deposit shall be as set forth in the Borough's fee schedule but shall be no less than \$6,500. Submission of the initial escrow to the Borough shall precede the pre-application meeting or any work being done.
4. The Borough's consultants/experts shall invoice the Borough for their services in relation to the application. If at any time during the process the escrow account has a balance less than one-third of the initial deposit, and the Borough determines that costs may run in excess of the unused portion, the applicant shall immediately, upon notification by the Borough, replenish said escrow account so that it has a balance of at least two-thirds of the initial deposit. Upon notification to the applicant of the need to replenish the escrow account, such additional escrow funds shall be deposited with the Borough before any further action or consideration is taken on the application. In the event that the amount held in the escrow account is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant upon request.

§ 27-1914 Public Hearing and Notification Requirements.

1. Prior to the approval of any application for a permit for a new tower or for any facility that increases the height of the structure to which it is to be attached, a public hearing shall be held by the Borough, and public notice shall be given in accordance with the provisions of Part 22 of this chapter and applicable provisions of the Municipalities Planning Code, 53 P.S. § 10101 et seq. In addition to the notice requirements of Part 22, the applicant shall notify all landowners within 1,000 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located and the application

shall contain the names and address of all such landowners. Such notification shall be by U.S. Mail no less than 30 calendar days prior to the scheduled date of the public hearing. In addition, the applicant shall post the public notice at the subject property no less than 30 calendar days prior to the scheduled date of the public hearing, indicating the date, time and location of the public hearing.

2. The Borough shall not schedule the public hearing referred to in Subsection 1 of this section until it determines the application is complete.

§ 27-1915 Action on an Application for a Permit for Wireless Telecommunications Facilities.

1. The Borough may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.
2. After the public hearing and after formally considering the application, the Borough may approve, approve with conditions, or deny a permit. Its decision shall be in writing and shall comply with the requirements of the Municipalities Planning Code, 53 P.S. § 10101 et seq. The burden of proof for the grant of the permit shall always be upon the applicant.
3. If the Borough approves the permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing in accordance with the Municipalities Planning Code, 53 P.S. § 10101 et seq., and the permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a permit has been granted hereunder, no additional permits or approvals from the Borough, such as site plan approvals, shall be required by the Borough for the wireless telecommunications facilities covered by the permit.
4. If the Borough denies the permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing in accordance with the Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 27-1916 Extent and Parameters of Permit for Wireless Telecommunications Facilities.

1. The extent and parameters of a permit for wireless telecommunications facilities shall be as follows:
 - A. Such permit shall not be assigned, transferred or conveyed without the express prior written notification to the Borough, such to be received at least 30 calendar days prior to the assignment, transfer or conveyance.
 - B. The permit may be revoked, canceled, or terminated for a violation of the conditions and provisions of the permit, or for a material violation of this Part or other applicable law, rule or regulation, in accordance with the provisions of this chapter and the Municipalities Planning Code, 53 P.S. § 10101 et seq.
 - C. Notice of a violation shall be provided to the last known address of the holder of the permit and in accordance with this chapter and the Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 27-1917 Application Fee.

At the time that a person submits an application for a wireless telecommunications permit, such person shall pay a nonrefundable application fee set forth in the Borough's fee schedule as may be amended or changed from time to time.

§ 27-1918 Permit Application and Other Requirements for a New Tower or for Increasing the Height of the Structure to Which a Wireless Telecommunications Facility Shall Be Attached.

1. The nonrefundable application fee for attaching to an existing tower or other structure without increasing the height shall be as set forth in the Borough's schedule of fees but no less than \$6,500.
2. An application for a new tower or to increase the height of an existing tower may not be made solely by the owner or manager of the structure. Such an application must be made jointly with a carrier who can prove the need for the new tower or the need to increase the height of an existing tower and the technical need for the height requested based on the technical requirements of the equipment and not necessarily the design criteria established by the applicant.
3. All applicants for a permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this Part. The Borough Council is the officially designated agency or body of the Borough to whom applications for a permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking permits for wireless telecommunications facilities. The Borough may at its discretion delegate or designate the Borough Planning Commission or other official agencies or officials of the Borough or expert consultants to accept, review, analyze, evaluate and make recommendations to the Borough Council with respect to the granting or not granting or revoking permits for wireless telecommunications facilities.
4. All applicants shall follow the instructions for preparing an application that shall be provided prior to the submittal of an application, or at any time upon request. Not following the instructions without permission to deviate from such may result in the application being returned without action and forfeiting the application fee, but not the escrow deposit.
5. When placing wireless facilities on government-owned property or facilities, only noncommercial wireless carriers and users are exempt from the permitting requirements of this Part.
6. The Borough may reject applications not meeting the requirements stated herein or which are otherwise not complete.
7. No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the Borough, and the conditional use permit and building permit have been issued.
8. An application for a permit for wireless telecommunications facility shall be signed on behalf of the applicant by the person preparing the same or otherwise authorized to sign the application on the applicant's behalf, and with knowledge of the contents and

representations made therein and attesting to the truthfulness and completeness of the information.

9. The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter of agency acknowledging authorization. If the applicant owns the site, a copy of the deed shall be provided with the application.
10. The applicant shall include a statement in writing:
 - A. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the permit, without exception, unless specifically granted relief by the Borough in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Borough, commonwealth and federal laws, rules, and regulations.
 - B. That the construction of the wireless telecommunications facilities is legally permissible including, but not limited to, the fact that the applicant is authorized to do business in the Commonwealth of Pennsylvania.
11. Where a certification is called for in this Part, such certification shall bear the signature and seal of a professional engineer licensed in the Commonwealth of Pennsylvania.
12. In addition to all other required information as stated in this Part, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the following information.
13. The applicant shall provide proof of need for the proposed facility, as follows:
 - A. A detailed narrative description and explanation of the specific objective(s) for the new facility, or the modification of an existing wireless facility, expressly including and explaining the purpose and need for the facility, such as coverage and/or capacity needs or requirements, and the specific geographic area of intended coverage.
 - B. Technical documentation that proves the need for the wireless telecommunications facility to provide service primarily and essentially within the Borough. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed or existing sites, that demonstrates a significant gap in coverage and/or, if a capacity issue is involved the application shall include an analysis of the current and projected usage (traffic studies) using generally accepted industry methods and standards so as to conclusively prove the need for what is proposed. A desire to change, upgrade, or improve the technology or the service shall not be deemed a need in the context of this Part.
 - C. All of the modeling information (i.e., data) inputted into the software used to produce propagation studies including, but not limited to, any assumptions made, such as ambient tree height as represented by a propagation study data form provided by the Borough or its designee.
 - D. If necessary to prove the need for the proposed facility, e.g., a disagreement between the Borough and the applicant, a drive test or actual call tests as prescribed by the Borough using accepted methodology may be required.

- E. A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the five- and ten-year build-out plan required by and filed with the FCC.
 - F. The frequency, modulation and class of service of radio or other transmitting equipment.
 - G. The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.
 - H. The actual intended transmission power stated as the maximum effective radiated power (ERP) both in dBm's and watts.
14. The applicant shall provide the following information regarding ownership and management:
- A. The name, address and phone number of the person preparing the application.
 - B. The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different from the applicant, the name, all necessary contact information and a copy of a lease or contractual agreement shall be provided.
 - C. The postal address and tax map parcel number of the property.
15. The applicant shall provide the following information regarding zoning and planning issues:
- A. The Zoning District or designation in which the property is situated.
 - B. The size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines.
 - C. The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application.
 - D. If attaching to an existing tower, a site plan showing the vertical rendition of the tower identifying all users and attachments to the tower and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.
 - E. If attaching to a building or other structure, a site plan showing the proposed attachments and all related fixtures, structures, appurtenances and apparatus, including height above the roof or balustrade, whichever is appropriate.
 - F. The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure.
 - G. The number, type and model of the antenna(s) proposed, along with a copy of the specification sheet(s) for the antennas.
 - H. The type, locations and dimensions of all proposed and existing landscaping, and fencing.
 - I. The number, type and design of the telecommunications tower(s) and antenna(s) proposed and the basis for the calculations of the telecommunications tower's capacity to accommodate multiple users.

- J. The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs.
16. The applicant shall provide the following information relating to safety:
- A. If attaching to an existing tower, the age of the tower in years, including the date of the grant of the original permit or authorization for the tower.
 - B. If attaching to an existing tower, a description of the type of tower, e.g., guyed, self-supporting lattice or monopole.
 - C. If attaching to an existing tower, the make, model, type and manufacturer of the tower and the structural design calculations, certified by a professional engineer licensed in the Commonwealth of Pennsylvania, proving the tower's capability to safely accommodate the facilities of the applicant without change or modification.
 - D. If any change or modification of the tower or other structure to be attached to is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made.
 - E. If the structure proposed to be attached to is a tower that has not previously been permitted under this Law, or unless the applicant can provide proof that this was provided at the time of the initial application for the tower or other structure, the applicant shall provide a copy, certified by a professional engineer licensed to do business in the Commonwealth of Pennsylvania and bearing that engineer's currently valid stamp, of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure.
 - F. For a guyed tower that is five years old or older, or for a nonguyed tower that is three years old or older, a copy of the latest ANSI report done pursuant to the latest edition of ANSI-EIA/TIA 222F-Annex E for any self-supporting tower. If an ANSI report has not been done or cannot be provided pursuant to the preceding schedule, an ANSI inspection and report shall be done and submitted as part of the application. No building permit shall be applied for or issued for any wireless facility where the structure being attached to is in need of remediation, unless and until all remediation work needed has been completed or a schedule for the remediation work has been approved by the Borough.
 - G. If not attaching to an existing tower, but to a different type of structure, a structural report signed by a professional engineer licensed to do business in the Commonwealth of Pennsylvania and bearing that engineer's currently valid stamp, showing the structural adequacy of the structure to accommodate the proposed wireless facility(s). This report shall include any equipment shelter, unless the equipment shelter is located on the lowest floor of a building.
 - H. If attaching to a structure other than a tower, or to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF radiation (i.e., NIER or nonion emitting radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an

individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF Radiation from all wireless facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers, including the area directly below the antennas for any structure less than 33 feet above ground level. Such report or analysis shall be signed and sealed by a professional engineer licensed in the Commonwealth of Pennsylvania.

- I. In an instance involving a tower where the new wireless facilities will be 33 feet or more above ground level, the FCC's "checklist to determine whether a facility may be categorically excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF emissions regulations. A complete RF emissions study is required to enable verification of compliance, including providing all calculations so that such may be verified.
 - J. The Borough may deem it appropriate to have an RF survey of the facility done after the construction or modification and activation of the facility, with such to be done under the direction of the Borough or its designee, and a copy of the survey provided, along with all calculations.
 - K. If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and with yellow plastic chain and striped warning tape, as well as signs appropriate to warn individuals of the potential danger.
 - L. A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.
17. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77, as amended, and if it requires lighting. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence and other documents shall be provided with the application.
18. Application for new tower versus co-location that increases the height or any other dimensions of the structure:
- A. In the case of a new tower, the applicant shall be required to submit a written report documenting efforts used to secure shared use of existing tower(s) or the use of alternative buildings or other structures that are at or above the surrounding tree height or the tallest obstruction and are within one mile of the proposed tower. Copies of written requests and responses for shared use shall be provided to the Borough in the application, along with any letters of rejection stating the reason for rejection.

- B. In order to better inform the public, in the case of a new telecommunication tower, the applicant shall hold a "balloon test" prior to the initial public hearing on the application, in accordance with the following provisions:
- (1) The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten-foot in length brightly colored balloon at the maximum height of the proposed new tower.
 - (2) At least 14 days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than 14 days after the conduct of the balloon test. The sign shall be at least four feet by eight feet in size and shall be readable from the road by a person with 20/20 vision.
 - (3) Such sign shall be placed off, but as near to, the public right-of-way as is possible.
 - (4) Such sign shall contain the times and date(s) of the balloon test and the date, time and location of the required public hearing, as well as a copy of the proposed site plan.
 - (5) The date (including an alternate date, in case of poor visibility or wind in excess of 15 mph on the initial date), times and location of this balloon test shall be advertised by the applicant seven days and 14 days in advance of the primary test date in a newspaper with a general circulation in the Borough and as agreed to by the Borough. The applicant shall inform the Borough in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours between 10:00 a.m. and 4:00 p.m. on the date chosen. The test shall be conducted on a weekend. A report with pictures from various locations of the balloon shall be provided with the application. The applicant shall provide proof of publication of the notice to the Borough at the time of the public hearing.
 - (6) In addition to the advertisement required by the preceding section, the applicant shall notify all property owners and residents located within 1,500 of the applicant's property of the proposed construction of the tower and wireless facility and of the date(s) and time(s) of the balloon test. Such notice shall be in writing and shall be provided at least 14 days prior to the conduct of the balloon test and shall be delivered by U.S. Certified Mail. The applicant shall provide evidence at the public hearing that the required notice was received by all property owners and residents entitled to such notice.
- C. The tower shall be structurally designed to accommodate at least five additional antenna arrays equivalent to those of the applicant as regards the load and stress created on the tower, and located as close to the applicant's antenna as possible without causing interference. A claim of interference because of a need to have greater than six feet of vertical clearance between facilities, measured from the vertical center line of one array to the vertical center line of another, must be proven by technical data and not merely verbal or written assertions. This requirement may

be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, based upon:

- (1) The kind of wireless telecommunications facilities site and structure proposed.
 - (2) Available space on existing and approved towers.
 - (3) The need for more than six feet of vertical clearance between antenna arrays, measured from the vertical center line of one array to the vertical center line of another, such that there would not be adequate vertical space to accommodate a total of four carriers.
- D. The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
- (1) Respond in writing, with a copy to the Borough, within 60 days to a written request for information from a potential shared-use applicant.
 - (2) Negotiate in good faith with a copy to the Borough concerning future requests for shared use of the new tower by other telecommunications providers.
 - (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges based upon current market rate. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
 - (4) Failure to abide by the conditions outlined above may be grounds for revocation of the permit or other appropriate action.
19. The applicant shall provide certification with documentation (i.e., structural analysis) including calculations that the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, or any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to, all applicable ANSI (American National Standards Institute) guidelines.
20. All applications for proposed wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences and their value in the area of the wireless telecommunications facility. The borough expressly reserves the right to require the use of camouflage technology and such shall be subject to approval by the Borough of Hatboro.
21. If the application is for a new tower, or a new antenna attachment to an existing structure other than a tower, or for a modification that noticeably changes the appearance or profile of the structure, the applicant shall furnish a visual impact assessment, which shall include:

- A. For a new tower, a computer generated "Zone of Visibility Map" may be required at a minimum of one mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage.
 - B. Pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the Borough including, but not limited to, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure.
 - C. A written description of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
22. The applicant shall demonstrate and provide in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.
23. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of camouflage technology as may be required by the Borough of Hatboro.
24. All utilities at a wireless telecommunications facilities site shall be installed underground.
25. At a wireless telecommunications facilities site an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
26. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Borough, Commonwealth of Pennsylvania, or United States including, but not limited to, the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. In the event of a conflict between or among any of the preceding the more stringent shall apply.
27. A holder of a permit granted under this Part shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Borough or other governmental entity or agency having jurisdiction over the applicant.
28. There shall be a pre-application meeting for all applications. The purpose of the pre-application meeting will be to address issues that will expedite the review and permitting

process and certain issues or concerns the Borough may have. A pre-application meeting shall also include a site visit, if there has not been a prior site visit for the requested facility. Costs of Borough consultants including, but not limited to, engineering, legal, and wireless consultants, to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of the required escrow account.

29. An applicant shall submit to the Borough the number of draft applications determined to be needed at the pre-application meeting.
30. The holder of a permit shall notify the Borough of any intended modification of a wireless telecommunication facility and shall apply to the Borough to modify, relocate or rebuild a wireless telecommunications facility.

§ 27-1919 Requirements for an Application to Attach to an Existing Tower or Other Structure Without Increasing the Height of the Tower or Structure to Which the Wireless Telecommunications Facility Is to Be Attached.

1. The nonrefundable application fee for attaching to an existing tower or other structure without increasing the height shall be as set forth in the Borough's schedule of fees but no less than \$6,500.
2. An application to increase the height of a tower or other structure shall be deemed a new tower and shall not qualify for treatment as an attachment to an existing tower or other structure under this section.
3. An application for a permit for attaching wireless telecommunications facilities to an existing structure including, but not limited to, cellular or PCS facilities and microwave facilities, shall contain the following information and comply with the following requirements:
 - A. Documentation shall be provided proving that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility to which the proposed wireless telecommunications facility will be attached, or a letter of agency, showing the right of the applicant to attach to the structure.
4. An application for attaching to an existing structure or for modifying an existing facility without increasing the height or any other dimensions of the structure shall contain the following information:
 - A. With regard to proof of need for the proposed facility:
 - (1) A detailed narrative description and explanation of the specific objective(s) for the new facility, or the modification of an existing wireless facility, expressly including and explaining the purpose and need for the facility, such as coverage and capacity needs or requirements, and the specific geographic area of intended coverage.
 - (2) At the Borough's discretion, technical documentation that proves the need for the wireless telecommunications facility to provide service primarily within the Borough. Such documentation shall include a propagation study of the proposed site and all adjoining planned, proposed or existing sites,

that demonstrates a significant gap in coverage and, if a capacity issue is involved, to include an analysis of the current and projected usage (traffic studies) using generally accepted industry methods and standards so as to conclusively prove the need for what is proposed. The Borough shall require the provision of all technical or engineering data and information used by the applicant to make its determination regarding the need for the facility or the change to the existing facility.

- (3) At the Borough's discretion, all of the modeling information (i.e., data) inputted into the software used to produce the propagation studies, including, but not limited to, any assumptions made, such as ambient tree height.
 - (4) At the Borough's discretion, if necessary to prove the need for what is requested, e.g., a disagreement between the Borough and the applicant, a drive test or actual call tests as prescribed by the Borough using accepted methodology may be required.
 - (5) A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the five- and ten-year build-out plan required by the FCC.
 - (6) The frequency, modulation and class of service of radio or other transmitting equipment.
 - (7) The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.
 - (8) The actual intended transmission power stated as the maximum effective radiated power (ERP), both in dBm's and watts.
- B. With regard to ownership and management:
- (1) The name, address and phone number of the person preparing the application.
 - (2) The name, address, and phone number of the property owner and the applicant, including the legal name, address and phone number of the applicant. If the owner of the structure is different than the applicant, the name shall be provided.
 - (3) The postal address and tax map parcel number of the property.
- C. With regard to issues relating to zoning and planning:
- (1) Zoning district in which the property is situated.
 - (2) The size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines.
 - (3) The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application.
 - (4) If attaching to an existing tower, a site plan showing the vertical rendition of the tower identifying all users and attachments to the tower and all related

fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.

- (5) If attaching to a building or other structure, a site plan showing the proposed attachments and all related fixtures, structures, appurtenances and apparatus, including height above the roof or balustrade, whichever is appropriate.
- (6) The azimuth, size and center line height location of all proposed and existing antennae on the supporting structure.
- (7) The number, type and model of the antenna(s) proposed, along with a copy of the specification sheet(s) for the antennas.

D. With regard to safety issues:

- (1) If attaching to an existing tower, the age of the tower in years, including the date of the grant of the original permit or authorization for the tower.
- (2) If attaching to an existing tower, a description of the type of tower, e.g., guyed, self-supporting lattice or monopole.
- (3) If attaching to an existing tower, the make, model, type and manufacturer of the tower and the structural design calculations, certified by a professional engineer licensed in the Commonwealth of Pennsylvania, proving the tower's capability to safely accommodate the facilities of the applicant without change or modification, taking into account the geotechnical situation and the foundation design.
- (4) If any change or modification of the tower or other structure to be attached to is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made.
- (5) If the structure proposed to be attached to is a tower that has not previously been permitted under this law, or unless the applicant can provide proof that this was provided at the time of the initial application for the tower or other structure, the applicant shall provide a copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure.
- (6) If attaching to an existing tower, a copy of the latest ANSI inspection report done pursuant to the latest edition of ANSI-EIA/TIA 222F-Annex E for any self-supporting tower that is five years old or older or for any guyed tower that is three years old or older. If an ANSI inspection report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application.
- (7) If not attaching to an existing tower, a structural report signed by a professional engineer licensed to do business in the Commonwealth of Pennsylvania and bearing that engineer's currently valid stamp, showing the structural adequacy of the structure to accommodate the proposed wireless facility(s), including any equipment shelter, unless the equipment shelter is located on the ground or on the lowest floor of a building.

- (8) If attaching to a structure, other than a tower, to which the public has or could reasonably have or gain access to, documentation, including all calculations, proving that the potential exposure to RF radiation (i.e., NIER or nonion emitting radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF radiation from all wireless facilities shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public. Such report or analysis shall be signed and sealed by a professional engineer licensed in the Commonwealth of Pennsylvania.
 - (9) In an instance on a tower where the new wireless facilities will be 30 feet or more above ground level, signed documentation such as the FCC's "checklist to determine whether a facility may categorically excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF emissions regulations. If not categorically excluded, a complete RF emissions study is required to enable verification of compliance, including providing all calculations, so that such may be verified.
 - (10) If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier and suitably marked.
 - (11) A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.
- E. To protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade, unless it can be proven that such will prohibit the provision of service, and all such attachments and exposed cabling shall use Camouflage techniques to match as closely as possible the color and texture of the structure attached to.
- F. If attaching to a water tank, mounting on the top of the tank or the use of a corral shall only be permitted if the applicant can prove that to locate elsewhere will prohibit the provision of service or creates an unresolvable safety threat, and all such attachments and exposed cabling shall use camouflage techniques to match as closely as possible the color and texture of the structure attached to.
- G. The applicant shall provide a certification by a professional engineer licensed in the Commonwealth of Pennsylvania, along with documentation (a structural analysis), including calculations, that prove that the tower or other structure and its foundation as proposed to be utilized are designed and constructed to meet all

local, Borough, commonwealth, federal and ANSI structural requirements for loads, including wind and ice loads and the placement of any equipment on the roof a building after the addition of the proposed new facilities.

- H. If the application is to attach to or modify existing facilities on a tower, the applicant shall provide signed documentation of the tower condition; specifically this shall mean a report done pursuant to the latest edition of ANSI-EIA/TIA 222F-Annex E for any self-supporting tower that is five years old or older or for a guyed tower that is three years old or older. Any deficiencies, other than strictly cosmetic ones, must be completed or remedied prior to the issuance of a building permit for the attachment of any component of the proposed wireless telecommunications facilities.
- I. To have the least adverse visual effect, all antennas attached to a tower or other structure shall be flush mounted or as near to flush mounted as is possible without prohibiting the provision of service, or prove technically, with data and a detailed narrative, that flush mounting shall not be used.
- J. The applicant shall demonstrate and provide in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility up to a height of 10 feet.
- K. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of camouflage as may be required by the Borough.
- L. All utilities installed for a new wireless telecommunications facility shall be installed underground.
- M. If needed, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- N. The applicant, and the owner of record of any structure or tower to which a wireless telecommunications facility will be attached, shall, jointly or separately, at its cost and expense, be required to place with the Borough financial security acceptable to the Borough as to type of security and the form and manner of execution, in an amount required by the Borough's current fee schedule for attaching to an existing structure or existing tower and with such sureties as are deemed sufficient by the Borough to assure the faithful performance of the terms and conditions of this chapter and conditions of any permit issued pursuant to this chapter. Said security shall also serve as a removal security in the event of the abandonment or cessation of use for more than 90 consecutive days. The full amount of the security shall remain in full force and effect throughout the term of the permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original permit.

§ 27-1920 Removal and Performance Security.

The applicant and the owner of record of any proposed tower or other new support structure, shall, at its sole cost and expense, be required to execute and file with the Borough financial security

acceptable to the Borough in an amount as determined by the Township Engineer, but not to exceed 110% of the combined estimated cost of removal of the tower or other support structure and restoration of the site to its pre-construction condition. The surety must be acceptable to the Township Solicitor as to type of security and the form and manner of execution. Such surety is to assure the faithful performance of the terms and conditions of this chapter and conditions of any permit issued pursuant to this chapter, as well as removal of the tower or other support structure, and restoration of the site, if abandoned. The full amount of the security shall remain in full force and effect throughout the term of the permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original permit.

§ 27-1921 Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a permit for wireless telecommunications facilities and any and all lessees, renters, or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Borough may, annually, inspect or have inspected by a party of its choice all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site. The Borough shall charge an annual inspection/registration/review fee. The amount of the fee shall be established by the fee schedule of the Borough.

§ 27-1922 Liability Insurance.

1. A holder of a permit for a wireless telecommunications facility shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the permit in amounts as set forth the Borough schedule of fees but no less than \$2,000,000. For a wireless telecommunications facility on Borough property, the commercial general liability insurance policy shall specifically include the Borough and its officers, Councils members, employees, committee members, attorneys, agents and consultants as additional insureds.
2. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the Commonwealth of Pennsylvania.
3. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Borough with at least 30 days' prior written notice in advance of the cancellation of the insurance.
4. Renewal or replacement policies or certificates shall be delivered to the Borough at least 15 days before the expiration of the insurance that such policies are to renew or replace.
5. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after the grant of the permit, the holder of the permit shall deliver to the Borough a copy of each of the policies or certificates representing the insurance in the required amounts.

6. A certificate of insurance that states that it is for informational purposes only and does not confer rights upon the Borough shall not be deemed to comply with this section.

§ 27-1923 Indemnification.

1. Any application for wireless telecommunication facilities that is proposed for Borough property shall contain a provision with respect to indemnification of the Borough. Such provision shall require the applicant, to the extent permitted by this Part and applicable law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Borough, and its officers, Councils members, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or be caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the grossly negligent or intentional acts or omissions of the Borough, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorney's fees, consultant's fees, and expert witness fees are included in those costs that are recoverable by the Borough.
2. Notwithstanding the requirements noted in Subsection 1 of this section, an indemnification provision will not be required in those instances where the Borough itself applies for and secures a permit for wireless telecommunications facilities.

§ 27-1924 Fines.

1. In the event of a violation of this Part or any permit issued pursuant to this Part, the Borough may impose and collect, and the holder of the permit for wireless telecommunications facilities shall pay to the Borough, fines or penalties as set forth in Part 24 of this chapter.
2. Notwithstanding anything in this Part, the holder of the permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Part or any section of this Part. An attempt to do so shall subject the holder of the permit to termination and revocation of the permit. The Borough may also seek injunctive relief to prevent the continued violation of this Part, without limiting other remedies available to the Borough.

§ 27-1925 Default and/or Revocation.

If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Part or of the permit, then the Borough shall notify the holder of the permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Part 24 and if a violation is not corrected to the satisfaction of the Borough within 30 days, the permit may be subject to revocation.

§ 27-1926 Removal of Wireless Telecommunications Facilities.

1. The owner of any tower or wireless telecommunications facility shall be required to provide a minimum of 30 days' written notice to the Borough Manager via Certified Mail-return receipt requested prior to abandoning any tower or wireless telecommunications facility.
2. Under the following circumstances, the Borough may determine that the health, safety, and welfare interests of the Borough warrant and require the removal of wireless telecommunications facilities:
 - A. Wireless telecommunications facilities with a permit that have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days.
 - B. Permitted wireless telecommunications facilities that fall into such a state of disrepair that a health or safety hazard is created including, but not limited to, becoming an attractive nuisance.
 - C. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or used or maintained in a manner not authorized by the required permit, or any other necessary authorization and the permit may be revoked.
3. If the Borough makes such a determination as noted in Subsection 2 of this section, then within 10 days the Borough may notify the holder of the permit for the wireless telecommunications facilities that said wireless telecommunications facilities are to be removed. To prevent a loss of service to the public and to enable the sale of the wireless telecommunications facilities, the Borough may approve an interim temporary use agreement/permit.
4. The holder of the permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible within 90 days of receipt of written notice from the Borough.
5. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the Borough may remove the wireless telecommunications facilities at the sole expense of the owner or permit holder.
6. If the Borough removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within 10 days, then the Borough may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.
7. Notwithstanding anything in this section to the contrary, the Borough may approve a temporary use permit/agreement for the wireless telecommunications facilities, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the permit, subject to the approval of the Borough, and an agreement to such plan shall be executed by the holder of the permit and the Borough. If such a plan is not developed, approved and executed within

the ninety-day time period, then the Borough may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section and utilize the security required in § 27-1920.

§ 27-1927 Conflict With Other Laws.

Where this Part differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the Borough, Commonwealth of Pennsylvania or federal government, this Part shall apply.