

BOARD OF COMMISSIONERS

AGENDA *Revised 10/21/2021, 10/25/2021*

Monday, October 25, 2021 - 6:30 pm

Pledge of Allegiance

Notice of Executive Session

1. Public Participation

2. Consent Agenda

- a) Chief's Monthly Report October 2021
- b) Final Staff Traffic Committee Meeting Minutes, September 15, 2021
- c) Resolution 2021-127 - Authorizing the Execution of a Grant Application to the Commonwealth of Pennsylvania's Redevelopment Assistance Capital Program in the amount up to \$1.025M for the South Wayne Municipal Parking Lot Flood Reduction Project

3. Committee Reports

A. Appointments Boards/Commissions

- *Dr. Robert Diecidue* *Board of Health*
Unexpired term 12/31/2021
- *Julie Koller* *Board of Health*
Unexpired term 12/31/2022
- *Ray Adams* *Environmental Advisory Committee*
Unexpired term 12/31/2021
- *Lisa Hallowell* *Environmental Advisory Committee*
Unexpired term 12/31/2021
- *Mike Lihota* *Planning Commission*
4-year term ending 12/31/2025

B. Ordinance 2021-10 – **(Introduction)** – Providing for the Amendment of Article XXVIII of the Zoning Ordinance of the Township of Radnor; Providing for Definitions; Establishing Certain General and Specific Standards Relating to the Locations, Placement, Construction and Maintenance of Tower-Based Wireless Communications Facilities, Non-Tower Wireless Communications Facilities, and Small Wireless Communications Facilities; Providing Further for the Regulation of Such Facilities within the Public Rights-Of-Way and Outside the Public Rights-Of-Way; Providing for the Enforcement of Said Regulations; and Providing for an Effective Date. **(Continued from 9/20/2021 BOC Meeting)**

C. Ordinance 2021-08 – **(Introduction)** – Amending Chapter 280 of the Radnor Township Code, Zoning Ordinance, by establishing regulations to permit hotel rooftop dining and outdoor dining as part of a hotel use within the PLO – Planned Laboratory Office District, PB – Planned Business District, C-2 General Commercial District, and C-3 Service Commercial District; and to permit rooftop dining for non-conforming hotels as a Special Exception.

D. Ordinance 2021-14 – **(Introduction)** – Removal of Handicap Parking Space on Eachus Avenue; Parking Not Permitted on west side of Wentworth Lane from Summit Terrace to Dreer Lane

E. Resolution 2021-126 – Further Extending Guidelines and Policies for Outdoor Sales of Food and Merchandise of Existing Businesses in the Township During the Corona Virus Pandemic Established Under Resolution 2020-61

~~F. Update on 2022 Comprehensive Budget Assumptions and Recommendations (removed 10/25/2021)~~

G. Motion to terminate Fern Valley Farm License Agreement, (originally authorized by Resolution #2015-51 - Fern Valley Farm License Agreement---Rye, Quarry, Wheeler Tracts, Ardrossan development). (Requested by Commissioner Booker) **Materials added to packet 10/21/2021**

H. Ordinance 2021-15 - (**Motion to send to Planning**)—An Ordinance of Radnor Township, Delaware County, Pennsylvania, Amending the Township Zoning Ordinance to Allow Rooftop Dining throughout the Township and to Provide Regulations Therefore (Requested by Commissioner Larkin, Commissioner Mulrone, and Commissioner Borowski)

4. Reports of Standing Committees

5. Old Business

a. Report for OPEB discussion (Commissioner Booker)

6. New Business

a. PECO contractor incident (Commissioner Farhy) *tabled from 10/18/2021*

7. Public Participation

8. Adjournment

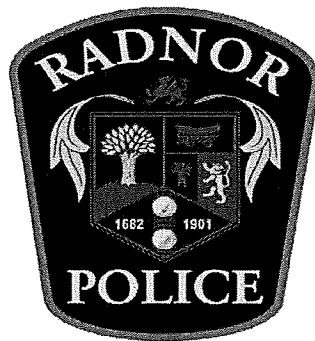
Meeting Notice

There will be a Regular Board of Commissioners meeting held on Monday, October 25, 2021, beginning at 6:30 PM in the Radnorshire Room of the Radnor Township Building, 301 Iven Avenue Wayne, PA 19087. The Meeting will be streamed live on the Radnor Township YouTube Channel <https://www.youtube.com/channel/UCvh6jeMQTvo3ojCTh8wZkbA>

Public Participation

RADNOR TOWNSHIP POLICE DEPARTMENT

Monthly Report



October 2021

**Christopher B. Flanagan
Police Superintendent**



SEPTEMBER

<u>Description</u>	<u>Primary Count</u>
--------------------	----------------------

Parking Tickets

Month of September 2021	352
January - September	2,278

Residential and Commercial False Alarm Violations

Month of September 2021	58
January - September	605

Moving Violations

Month of September 2021	324
January - September	2,321

Radnor Police Training - September 2021

Officer Safety and Awareness Training – Officer Brady McHale and Officer Bill Meyer



Radnor Twp PD DAILY INCIDENT COUNTS 09/01/2021 to 09/30/2021



Day of Month Responses	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total	
911 HANG UP	1	1	1	1	0	0	1	0	0	1	1	0	3	0	2	1	0	0	1	1	0	0	1	0	0	2	0	1	0	0	0	0	19
MV ACCIDENT (BRIDGE STRIKE)	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	3	
MV ACCIDENT (REPORTABLE)	1	0	0	0	1	0	1	2	0	0	0	0	1	0	1	0	1	0	0	1	0	3	0	0	0	0	0	0	2	0	0	14	
ADDED PATROL BUSINESS	1	3	3	1	3	0	3	4	5	1	3	2	2	2	5	4	2	2	0	3	3	2	3	3	1	0	2	2	1	2	0	67	
ADDED PATROL	5	2	2	5	9	6	5	5	7	11	5	3	6	7	7	7	6	3	4	10	4	0	7	10	5	7	5	8	7	0	178		
ADDED PATROL REQUEST	0	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	4		
ADDED PATROL SCHOOL	1	1	1	1	0	0	1	2	3	2	0	0	3	5	3	2	5	1	1	3	2	7	2	4	1	0	5	8	2	2	0	68	
ALARM (ALL TYPES)	4	5	5	8	2	1	5	3	4	5	7	5	1	2	3	4	0	7	3	3	1	4	9	4	3	1	3	1	5	4	0	115	
ANIMALS - BITES	0	1	1	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	4		
ANIMAL COMPLAINTS	0	0	0	0	2	2	1	0	2	1	1	2	0	0	2	1	0	0	0	2	1	2	0	1	1	3	1	1	1	1	0	31	
ANIMALS - DEER	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1		
ASSAULT	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	2		
ASSAULT SEXUAL	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1		
ASSIST ANOTHER PD	1	3	3	0	0	0	0	0	1	0	0	0	2	0	0	0	0	0	2	0	0	0	2	0	0	0	1	1	0	0	0	14	
ASSIST AGENCY NON LAW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
ASSIST PUBLIC	1	0	0	0	1	0	1	1	1	1	0	1	2	1	2	0	0	0	2	2	1	0	1	0	2	0	3	0	1	0	0	25	
ASSIST VUPD	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3		
BURGLARY RESIDENTIAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
CIVIL DISPUTE	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0	1	1	1	0	0	0	0	6	
COMMUNITY EVENT WITH PD	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
CRIMINAL MISCHIEF / VANDALISM	0	1	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	2	0	0	0	0	0	0	0	1	0	0	0	0	5	
DELCOM INFO ONLY	11	1	1	1	2	4	1	0	7	1	3	0	2	1	4	1	2	3	2	7	1	3	2	2	2	4	2	3	1	1	0	77	
NEIGHBOR DISPUTE	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	2	
DISTURBANCE NO CITATION	0	1	1	2	0	3	0	0	0	2	4	1	1	0	1	0	0	4	3	1	2	1	3	3	5	0	0	0	2	1	0	41	
DEATH DOA	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	1	0	0	5	
DOMESTIC (NO ARREST)	0	1	1	0	0	0	0	1	0	2	1	1	0	0	1	0	0	0	1	0	1	1	1	0	0	1	1	1	0	0	0	15	

CRIME ALERTS
SEPTEMBER 2021

A resident reports sometime during the overnight hrs of Wed 9/15 into Thurs 9/16 someone stole her Trek bicycle red in color. The bike was left in the apt complex unlocked. Anyone with information regarding this theft is asked to call 911.ng this theft is asked to call 911.

On Friday, 9/17/2021, a resident of the Saint Davids Park Condos reported a burglary of their residence, interrupted by their daughter. After additional calls about the actor being in a second apartment unit, Radnor Police arrested a 35 year old, white male for the crime. The actor will be charged with two counts of burglary.

The victim, who resides in the 500 block of highland Av., reports her garden was vandalized sometime over night between 9/18/2021 and 9/19/2021. The victim advises that the small garden, that is just outside of her front door, had the plants trampled and the "garden ornaments" were kicked over.

On Friday, 9/17/2021, a female victim reports an indecent assault that had just occurred in the Wawa, located at 201 Bryn Mawr Av. The actor, who was described as heavy-set white male in his thirties, was groping the female's buttocks and pressing against her from behind. Using witness statements and video footage an arrest is pending in this case.

On Thursday, 9/23/2021, at approximately 9:50 am the CVS Store reported an attempted theft from their location. The store manager advised a W/M, wearing a yellow T-shirt and a blue baseball cap on backwards, was observed loading several items inside of a bag. The male then attempted to leave the store without paying. The male dropped the items and left the store when confronted.

On Thursday, 9/23/2021, a female victim reports leaving her purse in the Micro Center Store. After realizing she left it in the store, she returned several minutes later and was not able to locate her purse.

On Saturday, 9/25/2021 at approximately 6:17 pm, a large, group of reckless motorcycle operators traveled through Radnor Township. The group made up of over 100 vehicles, including motorcycles, "dirt bikes", ATVs and "trikes" traveled west on Lancaster Av. and then proceeded north on N. Springmill Rd. The group, disregarded all traffic laws, drove on sidewalks, in and out of traffic and performed other reckless maneuvers with their vehicles. If anyone see these individuals return to Radnor, please call 911. **DO NOT ENGAGE ANY OF THE OPERATORS AND IF POSSIBLE, TURN AWAY FROM THEM AND GO IN THE OPPOSITE DIRECTION.**

On Monday, 9/27/2021, management from the Five Below store and other businesses in the 300 block of E. Lancaster Av. report a large group of juveniles on the roof of the above businesses. The juveniles appear to access the roof from the rear of the properties and cause a disturbance to all the stores in the shopping center.

Sometime between Friday, 9/24/2021 and Monday, 9/27/2021, the men's room at Odorasio Park was vandalized. The ceiling beams in the men's bathroom had several minor burn marks on them.

The Radnor Police respects citizens' privacy, civil rights, and civil liberties by emphasizing behavior, rather than appearance, in identifying suspicious activity. Factors such as race, ethnicity, and/or religious affiliation are not suspicious. The public should only report suspicious behavior and situations (e.g., an unattended backpack or package, or someone breaking into a vehicle or restricted area). Moreover, any physical descriptions are based on victim and witness statements provided to the Radnor Police at the time the incident was reported or developed through investigation



RADNOR TOWNSHIP POLICE DEPARTMENT
301 Iven Ave., Wayne, PA 19087

Office of Emergency Management

To: Superintendent Christopher B. Flanagan

From: Radnor Township Office of Emergency Management

Date: 9/22/2021

Subject: Department Head Meeting – Hurricane Ida – After Action Report

On Monday, September 20, 2021, at 1030 hrs. a meeting was held in Superintendent Flanagan's conference room to discuss the Township response to Hurricane Ida.

In attendance:

Police:	Superintendent Flanagan Executive Assistant to the Superintendent Vera DiMaio Sgt. Gluck Ofc. McHale
Engineering:	Township Engineer Norcini
Public Works:	Director Foster
Com Dev:	Director Kochanski
Rec & Com:	Director Cohen
Public Info:	PIO Gallagher

Each member in attendance expressed the overall response and clean up was positive. The storm appeared to move quickly through our 13.8 square miles, while inundating the surrounding areas North & West.

The following information represents mentioned successes, areas for improvement, and suggestions for future efforts:

Successes, what went well and why?

- Staff was prepared and the clean up by Public Works was done quickly
- The use of a smaller EOC allowed for good overall command of the incident
- The use of the Google Incident Log worked well and was helpful both during and after the storm. The form allowed for coordinated response as well as an overall understanding of what areas required attention for cleanup

➤ **Radnor Fire Co.**

- had 30 volunteer and career staff members on station for response
- Radnor Fire Co. responded to 7 water rescue incidents resulting in the safe collection of 70 people
 - 60 rescues in Bridgeport, PA using their boat
 - 3 rescues using the water rescue truck
 - Partnered with Berwyn Fire Co. to rescue a woman trapped in her vehicle while rushing waters flowed over the vehicle. After a 4-hr. effort they were successful in the safe collection of the driver

- **Bryn Mawr Fire Co.**
- Responded to a total of 8 water rescue responses between Radnor & Lower Merion Townships

➤ **Broomall Fire Co.**

- Area was spared and did not have any calls during the storm

➤ **Radnor Police**

- Responded using the water rescue vehicle in Delaware & Montgomery Counties
- RPD responded to:
 - Lower Merion to assist with home evacuations
 - Conshohocken to assist in rescuing hotel guests
 - 7 evacuation responses to the hotel consisting of 10-17 people at a time
 - This included:
 - Numerous adults
 - 3 Handicapped Persons
 - 12 Children
 - 3 Dogs

What could have been improved and how?

- Implement better barricades made of pressure treated wood instead of the current plastic barricades which blow over in the wind
- Purchase more magnetic flags to be placed on vehicles after rescues to prevent unnecessary searches of vehicles found in flood waters
- Establish designated scribes to add information to the Google Incident Log to prevent reproduction of the same information
- Update the Google Incident Log with additional classifications and a notes section
- Create a shift rotation signup sheet so all know who will be working in the EOC for 12 hr. periods
- Virtual EOC if possible

Suggestions

- Close roadways known to flood in advance of the storm
- Create a PSA campaign to show the dangers of driving in flood waters
 - Produce our own with our own footage – PD Camera Footage
 - Promote and play via website, Township TV channel at the beginning and throughout hurricane season
 - National Weather Service link to our website: NWS Flood Safety
 - Use National Weather Service flood signage:
 - Turn Around Don't Drown Sign - Yellow
 - Turn Around Don't Drown - Pink
- Conduct tabletop exercises with Township staff to work through several scenarios
- Add an additional EOC radio system console
 - PD, Fire, & PW can be in the same room and can dispatch their team
 - Update PW radio channel for stronger communication signal
- Bring in Recreation staff to assist with EOC activations
 - Answering Phones
 - Assisting with documentation
- Director Kochanski suggested, if possible, could we find something that would float and strobe marking the location of a manhole which has lost the cover due to flooding
 - This would need to be tied to the ladder inside a manhole
 - Option: Floating Strobe
 - Cost and location distribution may be difficult
- Provide Public Works staff with:
 - Water Safety Training - Awareness Level: <https://www.boat-ed.com/waterrescue/>
 - 15 Personal Flotation Device Vests: Flotation Vest Example
 - 15 hi-vis helmets w/ mounted flashlights: Safety Helmet w/light example
 - 5 Sounding Sticks: Wading Pole - Reach and Rescue

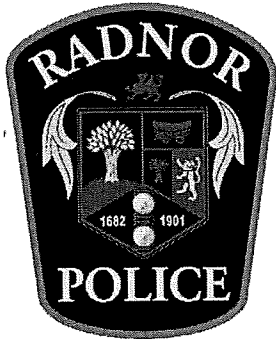
The team effort and response to Hurricane Ida were found to be solid. Also, our live Google Incident Log appears to be working well.

One area of concern was raised by Director Foster who mentioned one of his team members had been placed in a dangerous situation and came close to drowning in a flooded manhole. Suggestions made for Public Works in the memo are considered crucial for the safety of our team.

Respectfully,

Sgt. Christopher A. Gluck #301

Sgt. Christopher Gluck #301
Emergency Management Coordinator



RADNOR TOWNSHIP POLICE DEPARTMENT
301 Iven Ave., Wayne, PA 19087

Memorandum

To: Superintendent Christopher B. Flanagan

From: Sgt. Christopher Gluck #301

Date: 9/23/2021

Subject: Community Education Program

A core Police Department goal has always been to provide our community with quality service, protection, and education. During this time, we have made the effort to let our businesses (local and corporate entities), care facilities, and educational institutions know we are happy to schedule and provide their staff and stakeholders with presentations which can increase their safety and awareness.

I wish to highlight two recent presentations which were conducted by our team members. These presentations, thanks to the recent commonality of virtual communications, have boosted our community outreach.

On Thursday, September 2, 2021, Det. Metzler and Ofc. Matijasich conducted multiple Active Shooter (Run/Hide/Fight), De-escalation, and 911 response presentations for Physicians and staff members of Penn Medicine. These presentations were completed in (3) 1-hour long sessions which were done in-person at their building while simultaneously being held virtually via Microsoft Teams for members who could not be on location physically. A Q&A portion was also a part of each session.

On Wednesday, September 22, 2021, Superintendent Flanagan and Det. Metzler completed an hour-long presentation virtually via Zoom to Radnor High School students and staff. Superintendent Flanagan presented and discussed the "Safe2Say" program which allows for anonymous reporting of abuse, acts of violence, or any topic of concern. Det. Metzler presented what to do during an active shooter incident and explained the principals of Run/Hide/Fight. At the end of the presentations, a Q&A session was conducted where students asked excellent questions and took part in further discussions.

With these recent successful blends of in-person and virtual educational presentations, we hope to conduct future programs in the same manner allowing our team to provide the best outreach possible.

Please know our team has recently been contacted by Denise Clofine, the Administrator of St. Edmund's Home for Children, requesting an active shooter Run/Hide/Fight presentation for their staff. Det. Metzler is currently working on scheduling that presentation.

Respectfully,

Sgt. Christopher A. Gluck #301

Sgt. Christopher Gluck #301

RADNOR TOWNSHIP POLICE DEPARTMENT
COMMUNITY EVENTS

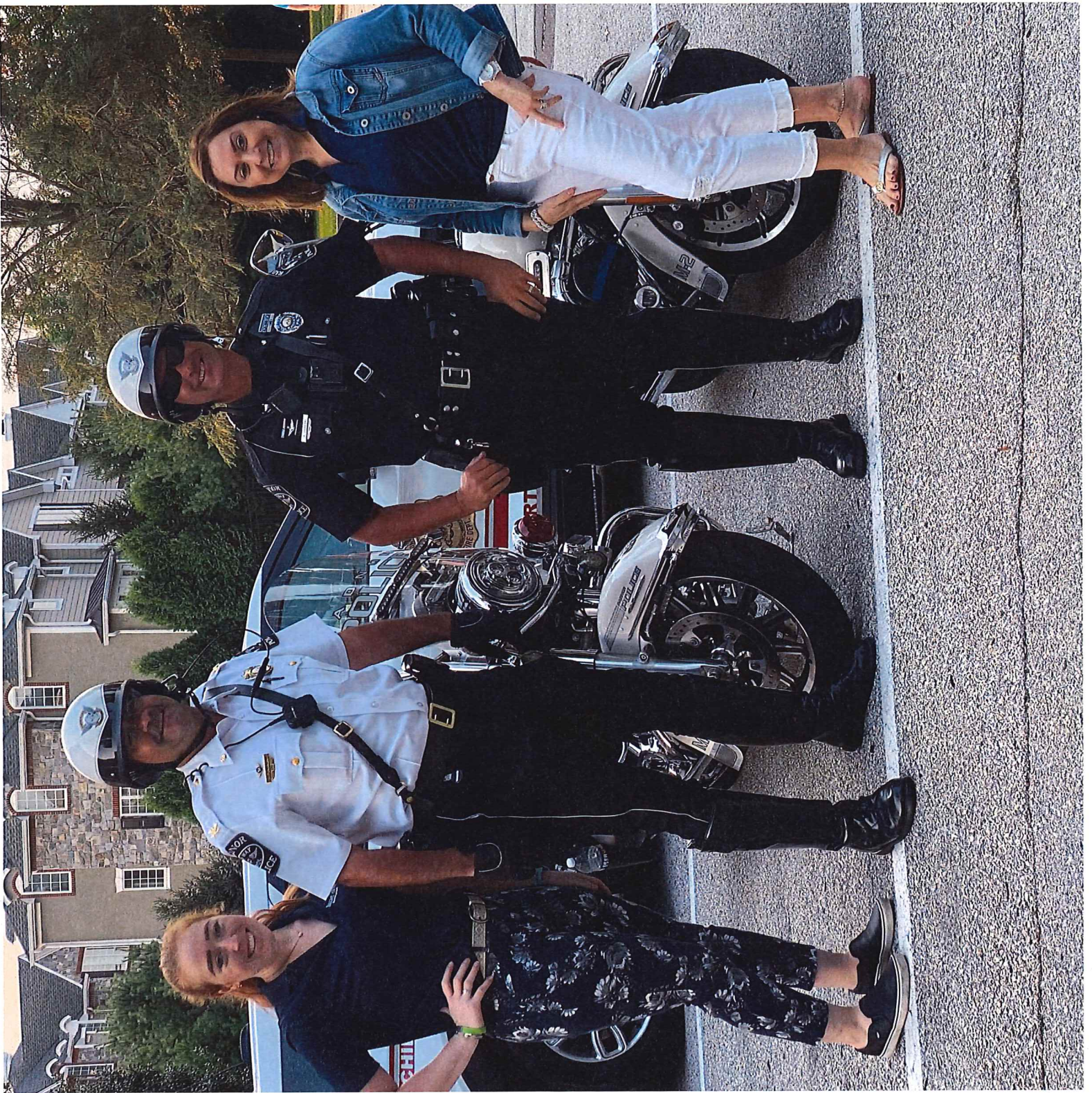
Hello Superintendent Flanagan,

Here are the photos from the Main Line Run today. Thank you for your service!

Best,

Nicole Stephenson
Director, Society of Professional Women
The Main Line Chamber of Commerce
175 Strafford Avenue, Suite 130
Wayne, PA 19087
Direct: 484-253-1118
Office: 610-687-6232
Fax: 610-687-8085
nstephenson@mlcc.org
www.mlcc.org
www.spwmainline.com







Troop Devon 50 & Pack 81 Food Collection



Saturday, September 25th 10:00am-12:00pm

Benefiting

Wayne Food Pantry

Non-contact Car Drop-off

“Pull-up and Pop trunk”

Two Drop-off Locations:

**Radnor War Memorial
150 S Wayne Ave, Wayne, PA 19087**

**St. Matthew's United Methodist Church
600 Walker Rd, Wayne, PA 19087**

Non-perishables needed ((Most needed items in red/uppercase):):

- **PEANUT BUTTER/JAMS/JELLIES**
- **CANNED TUNA/CHICKEN/MEATS**
- **CANNED VEGETABLES**
- **CANNED SOUP**
- **SPAGHETTI SAUCE**
- Canned beans / canned fruit
- Cereal
- Pasta, Mac & cheese
- Boxed rice & mashed potatoes
- Meal kits (i.e. Hamburger Helper)
- Toiletries (i.e. toilet paper, paper towels, toothpaste, shampoo, soap, laundry detergent, etc.)



RADNOR TOWNSHIP POLICE DEPARTMENT

THANK YOU LETTERS

Hello Bill and Chief Flanagan,

On behalf of the Wayne Food Pantry and Devon Troop 50, I'd like to convey my thanks and appreciation for all the support you provided to our community food drive! The donations really helped re establish our inventories. I'd especially like to recognize Joe Hammond, John Talucci and Sgt. Mark Stiansen for their efforts! Best wishes, Bob King

The information in this email, and any attachments, may contain confidential information. Use and further disclosure must be consistent with applicable laws. However, if you believe you've received this email in error, delete it immediately and do not use, disclose or store the information it contains

Thank you to all the Chiefs who sent cars for the escort last night. It was very well attended and the family was very appreciative!! The FOP appreciates it very much!!

Christopher D. Eiserman
Delaware County Fraternal Order of Police Lodge 27
2nd Vice President
PAC Chairman
FOP Foundation Executive Director

Sgt Gluck,

My sincere apologies for the delayed response. I have been meaning to write to you and chronically get distracted! The sessions were fantastic! Truly, they were informative, helpful and really gave us some great tips on how to manage multiple situations. The best part was how relevant they were able to make it. What I mean by that is sometimes when you have a generic presentation by a vendor the information is not necessarily helpful in a healthcare situation but we were able to ask questions that were specific to our challenges. Feedback form staff was super positive. I'm not sure I have any suggestions for improvement to be honest. I really did think it was great. We are so grateful for the partnership.

We had about 148 attend virtually and 25 in person for each session.

Hope you are well and hanging in there! Please thank all of your officers for what they do.

Tracey

Tracey Commack, MBA
Associate Executive Director
610-902-4780 (office)
215-313-6936 (cell)
Penn Medicine Radnor
145 King of Prussia Road
Radnor, PA 19087

Dear Chief Flanagan,

I would like to thank you for allowing me to do the ride-along. Officer Dylan Glenn#136 was my ride along partner and he answered my questions and was very professional. I can't thank you enough for allowing me to get a better understanding of the police world. If you have any intership available I would love to help out.

Thank you Daniel Katz

RADNOR TOWNSHIP POLICE DEPARTMENT

**301 Iven Avenue
Wayne, Pennsylvania 19087-5297
(610) 688-0503 □ Fax (610) 688-1238**

**Christopher B. Flanagan
Police Superintendent**

TO: Radnor Township Commissioners; William M. White, Township Manager; Robert Tate, Director of Finance; Stephen F. Norcini, Township Engineer; Ricky Foster, Public Works Director; Tammy Cohen, Director of Recreation and Community Programming; Kevin W. Kochanski, Director of Community Development; Bill Cassidy, Field Leader; Lt. Shawn Dietrich; Lt. Joseph Pinto; Sgt. Mark Stiansen, Officer Alex Janoski; Officer Pat Lacey, Officer Ken Piree, Highway Patrol Unit; William Gallagher, Supervisor of Parking; Damon Drummond, Senior Transportation Engineer for Gilmore and Associates; Vera DiMaio, Executive Assistant

FR: Christopher B. Flanagan

RE: STAFF TRAFFIC COMMITTEE MEETING HELD IN THE POLICE ROLL CALL ROOM, WEDNESDAY, SEPTEMBER 15, 2021 AT 10:00 AM.

NEW BUSINESS

1. Discussion of allowing parking on one side only in the area of 48-62 Wentworth Lane for public safety concerns.

Deputy Fire Chief William Gallagher stated his concerns of safety regarding this item. Public Works Director, Ricky Foster, also stated his concerns of lack of space for the trash trucks to get through at this location.

2. Commissioner Abel requests a discussion on the feasibility of removing one (1) parking space on West Wayne Avenue at Wicklow Court.

Commissioner Abel was present at this meeting, along with Homeowners Association President, Paul Grady. They both stated their concerns. Sgt. Stiansen agreed with concerns. Staff Traffic Committee recommends the removal of one (1) parking space on West Wayne Avenue at Wicklow Court. If BOC approves, a new Ordinance will be drafted for the removal of the parking space.

3. Commissioner Borowski would like a discussion on the following items:

- Watch Children signs on Portledge Drive
- School Bus sign on Roberts Road at Portledge Drive
- Discussion about truck speed on Strathmore Avenue
- Discussion about regarding speed humps on Strathmore Avenue

Commissioner Borowski was present at this meeting. Public Works Director, Ricky Foster, will take care of the following:

Will place a "Watch Children" sign at the entrance of the road.

Will place School Bus Stop sign on Roberts Road going in each direction of the road.

Staff Traffic Committee stated there are no issues regarding speed on Strathmore Avenue as the studies show back in 2019/2020. Public Works Director, Ricky Foster, will place "strictly enforced" signs under the speed limit signs to help with enforcement.

Staff Traffic Committee also stated they will rotate the speed board at this location.

Staff Traffic Committee stated that Strathmore Avenue does not qualify for speed humps.

4. Ernie Girod requests a Handicap parking space on 109 Plant Avenue

This item was tabled as Mr. Girod did not have proper paperwork at this time.

5. Chris Daly requests a speed hump study be completed on Roberts Rd.

Mr. Daly was present for the meeting. He stated his concerns regarding the speeding on Roberts Road. Sgt. Stiansen agreed with his concerns. He directed Mr. Daly to begin the process of a Petition for speed humps and explained the process. If the Petition is completed within the required 30 days then a speed study would be performed.

Staff Traffic Committee requested Public Works Director, Ricky Foster, to install a 25 mph sign on Castlefinn and Bryn Mawr Avenue.

OLD BUSINESS

Street light requests - 300 Block of Iven Avenue and 100 Block of Eaton Drive
Gallagher Road - Request to not repaint double yellow lines.

Highway Patrol Officer Ken Piree will set up a meeting with owner regarding the placement of the street lights on both Iven Avenue and Eaton Drive; If neighbors agree to the street light location and a Petition is granted, then it will be revisited at the next Staff Traffic Committee Meeting.

Staff Traffic Committee states that Gallagher Road will remain as is with no painting of double lines.

See attached spreadsheet for pending issues and updates



RADNOR TOWNSHIP POLICE DEPARTMENT

301 Iven Ave., Wayne, PA 19087

September 2021 Staff Traffic Status Report

Project Name	Project Information	Status Update
County Line Corridor Study (from Lancaster Avenue to Conestoga Road)	Radnor Township along with Lower Merion funded the County Line Corridor Study (posted on the Township's website). Both Townships agreed that the first project to be constructed from the study would be a traffic signal at County Line Road and Montrose Avenue. Pennoni Engineering Associates was awarded the design contractor for traffic signal.	The signal design has been designed and submitted to Penn DOT. It is anticipated the project will be bid in Q4 of 2021.
King of Prussia Rd & Eagle Rd intersection improvements	Radnor Township, in partnership with Cabrini and Eastern Universities, received a DCED MTF grant to construct intersection improvements including turning lanes, storm sewer, and signal improvements. The project is in the design phase. Rd	The project is to bid in Q4 of 2021.

RESOLUTION NO. 2021-127

A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AUTHORIZING THE EXECUTION OF A GRANT APPLICATION TO THE COMMONWEALTH OF PENNSYLVANIA'S REDEVELOPMENT ASSISTANCE CAPITAL PROGRAM FOR THE SOUTH WAYNE MUNICIPAL PARKING LOT FLOOD REDUCTION PROJECT

WHEREAS, the South Wayne neighborhood of Radnor Township ("Township") experiences nuisance and severe community flooding; and

WHEREAS, the Radnor Fire Company could be hindered in its ability to provide fire and ambulance services due to the flooding in front of the fire house on South Wayne Avenue; and

WHEREAS, public health and safety is a concern due to flooded roads and the inability of emergency vehicles to access certain areas; and

WHEREAS, the Township desires to request a Redevelopment Assistance Capital Program (RACP) grant of \$1,025,000 from the Commonwealth of Pennsylvania's Office of Budget to be used to construct a stormwater conveyance system and subsurface stormwater storage system under the South Wayne Parking Lot and commits to a matching component for the grant in an amount not to exceed \$2,200,000 and authorizes the Township Manager to execute all required documentation related this grant application with the Office of Budget.

NOW THEREFORE, it is hereby RESOLVED that the Radnor Township Board of Commissioners authorizes a Redevelopment Assistance Capital Program (RACP) grant application from the Office of Budget in the amount of \$1,025,000 and Township matching funds up to \$2,200,000 to be used for the development of stormwater conveyance system and a subsurface stormwater storage system under the South Wayne Parking Lot.

SO RESOLVED this 25th day of October, 2021.

RADNOR TOWNSHIP

By: _____
Name: Jack Larkin
Title: President

ATTEST: _____
William M. White
Township Manager / Secretary

Radnor Township



PROPOSED LEGISLATION

DATE: October 19, 2021
TO: Board of Commissioners
FROM: Stephen F. Norcini, P.E., Township Engineer

LEGISLATION: Resolution #2021-127 Authorizing the Execution of Commonwealth of Pennsylvania Office of Budget's Redevelopment Assistance Capital Program (RACP) grant application for the South Wayne Municipal Parking Lot Flood Reduction Project. Township Staff will administer and prepare the necessary grant documentation and will coordinate the project if approved by the Board of Commissioners and subsequent granting authorities.

LEGISLATIVE HISTORY: This is the first legislative action on this topic.

Legislative history related to the South Wayne Municipal Parking Lot Flood Reduction project:

- July 16, 2018 – Resolution 2018-68 Awarding Meliora Design the Contract for Flood Reduction Options on Midland Avenue, Using the South Wayne Municipal Parking Lot for Stormwater Management, and Utilization of the SWM System at the Radnor Middle School.
- August 12, 2020 – Application to the Commonwealth of Pennsylvania Office of Budget's Redevelopment Assistance Capital Program for the South Wayne Municipal Parking Lot Flood Reduction Project [NOT AWARDED].
- September 20, 2021 – Resolution 2021-100 Authorizing the Engineering Department to Receive Sealed Bids for the South Wayne Avenue Stormwater Management Project

PURPOSE AND EXPLANATION: Radnor Township has the opportunity to execute a grant application through Commonwealth of Pennsylvania Office of Budget's Redevelopment Assistance Capital Program for the South Wayne Municipal Parking Lot Flood Reduction Project.

The residential community of Wayne, Radnor Township was originally constructed in the late 1800's as a planned development along the Pennsylvania Railroad Main Line. As a result, there is limited stormwater management and physical opportunity to provide stormwater management due to the built-out nature of the area. Residents currently experience nuisance and severe community flooding. Public health and safety is often a concern due to flooded roads and the inability of emergency vehicles to access certain areas. Specifically, Emergency Response by Radnor Fire Company could be hindered due to flooding in front of the fire house on S. Wayne Ave. which provides both fire and ambulance services.

The project will entail the construction of a subsurface stormwater management system under an existing parking lot located within the Wayne residential community as well as the construction of a stormwater conveyance system connecting an existing pipe network to new inlets and pipes so that the system can convey the runoff to an existing, under-utilized stormwater management system a short distance away. The new parking lot built in place of the existing will have various improvements including landscaping, lighting, and designated traffic directions. The stormwater management system will be constructed by Radnor Township on township-owned property. The stormwater conveyance infrastructure will be built partially within the public right-of-way of both PennDOT and Radnor Township roads. The stormwater management system will store and release runoff from rainfall, mitigating the flooding impact for this heavy trafficked area.

FISCAL IMPACT: There is no direct fiscal impact or financial obligation to authorizing the execution of a grant application to the Commonwealth of Pennsylvania Office of Budget's Redevelopment Assistance Capital Program for the South Wayne Municipal Parking Lot Flood Reduction Project. The Township will only accept the terms of the proposed RACP grant if awarded. Radnor Township will request grant funding in an amount not to exceed \$1,025,000. RACP requires that at least 50% of the project cost must be match (non-state) participation, which will be funded through stormwater borrowing as previously authorized by the Board of Commissioners.

RECOMMENDED ACTION: Staff respectfully requests the Board to approve Resolution #2021-127 authorizing the execution of the grant application to the Commonwealth of Pennsylvania Office of Budget's Redevelopment Assistance Capital Program for the South Wayne Municipal Parking Lot Flood Reduction Project.

Appointments
Boards / Commissions



M•E•M•O•R•A•N•D•U•M

TO: Township of Radnor Board of Commissioners

FROM: Michael D. Roberts
Attorney, Cohen Law Group

SUBJECT: *Township of Radnor: Draft Wireless Communications Facilities Ordinance and Small Wireless Communications Facilities Design Manual*

DATE: October 18, 2021

As you requested, this memorandum details the amendments made to the Township of Radnor (“Township”) Code of Ordinances in the proposed wireless facilities management ordinance (“Ordinance”) prepared by the Cohen Law Group (“CLG”). In addition to CLG, the Ordinance was reviewed and revised by Township staff, the Township Planning Commission, and the Township Citizens Communications Council. This memorandum discusses the applicable law governing local regulation of wireless communications facilities, the major requirements of the Ordinance, and the changes to the existing Code requirements for wireless communications facilities proposed.

A. Applicable Law.

1. Telecommunications Act of 1996

Local regulatory authority over wireless communications facilities is established by the Telecommunications Act of 1996 (“TCA”). The TCA expressly preserves local zoning authority “over decisions regarding the placement, construction, and modification of personal wireless service facilities. 47 U.S.C. § 332(c)(7)(A). This local zoning authority is subject to a number of enumerated limitations.

2. FCC 2018 Small Cell Order

The Federal Communications Commission’s (“FCC”) 2018 Declaratory Ruling and Third Report and Order entitled “In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (“2018 Order”) established and defined a new

type of wireless communications facility, the “small wireless facility.” The 2018 Order imposed strict requirements for local regulation of such facilities. These requirements addressed the timeframes in which local governments must act on requests for approval of a small wireless facility application, the fees local governments are permitted to charge for both applications and use of the public rights-of-way, and how local governments are permitted to regulate the aesthetics of small wireless facilities.

3. Pennsylvania Act 50

On June 30, 2021, the Pennsylvania General Assembly passed Act 50, entitled the “Small Wireless Facilities Deployment Act” (“Act 50”). Act 50 echoes many requirements of the 2018 Order for local regulation of small wireless facilities. Act 50 also imposes additional requirements for regulation of small wireless facilities in the public rights-of-way, most notably the requirement that small wireless facilities be a permitted use in the rights-of-way in all zoning districts. The deployment of small wireless facilities in the rights-of-way, however, is subject to “applicable codes,” defined in part as “local zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances that comply with [Act 50].” This allows local governments to continue to regulate the deployment of small wireless facilities so long as that regulation complies with the requirements of Act 50. Local governments are also permitted by Act 50 to “develop objective design guidelines for a small wireless facility regarding the minimization of aesthetic impact.”

B. Major Changes in Proposed Ordinance.

Given the substantial revisions to the Township Code required for compliance with the 2018 Order and Act 50, the Ordinance fully repeals and replaces Article XXVIII “Wireless Communications Systems” of the Township Code. Certain provisions from the existing Code requirements, namely those relating to the districts in which wireless communications facilities are permitted and the design of those wireless communications facilities, are retained. As the Township’s current Code provisions are relatively limited, however, the Ordinance is primarily comprised of new requirements that have been developed and refined by CLG in conjunction with Township staff and volunteers.

While the current Code requirements impose mainly generalized standards that are applicable to all wireless communications facilities, the Ordinance is divided into four main sections as follows: 1) general requirements for all wireless communications facilities (“WCFs”), 2) specific requirements for Non-Tower Wireless Communications Facilities (“Non-Tower WCFs”), 3) specific requirements for Tower-Based Wireless Communications Facilities (“Tower-Based WCFs”), and 4) specific requirements for Small Wireless Communications Facilities (“Small WCFs”). This division allows the requirements of the Ordinance to be narrowly tailored to the type of wireless communications facility to which they apply. The major requirements of each section of the Ordinance are as follows:

1. General Requirements for All Wireless Communications Facilities

Section 280-164 of the Ordinance establishes general requirements that are applicable to all WCFs in the Township. These requirements include, but are not limited to, the following:

- a. Requirement for compliance with industry standard safety codes;
- b. Requirements for engineer certification of structural integrity and compliance with applicable FCC standards, including those for radiofrequency emissions;
- c. Requirements for submission of Eligible Facilities Requests;
- d. Requirements for required emergency contact signage;
- e. Requirements for imposition of permit fees;
- f. Requirements for financial security sufficient to guarantee removal of a WCF;
- g. Requirements for indemnification of the Township by the WCF owner;
- h. Requirements for maintenance and removal;
- i. Federally mandated timeframes for review and decision on applications for WCFs.

2. Specific Requirements for Non-Tower Wireless Communications Facilities

Section 280-165 of the Ordinance establishes requirements that are specific to Non-Tower WCFs in the Township. These requirements include, but are not limited to, the following:

- a. Non-Tower WCFs are permitted outside the public rights-of-way as a secondary use in the following zoning districts: 1) R-5 Residential, 2) C-2 General Commercial, 3) C-3 Service Commercial, 4) PB Planned Business, 5) PLO Planned Laboratory Office, and 6) PI Planned Industrial. These are the same districts in which Non-Tower WCFs are permitted under the current Code requirements.
- b. Applications for Non-Tower WCFs will be submitted to and reviewed by the Township Zoning Officer. The Township Zoning Officer will also provide all applications to the Township Planning Commission and Citizens Communications Council for additional review. The Planning Commission and Citizens Communications Council reviews have been added in the Ordinance per discussions with Township staff and the Planning Commission.
- c. Section 280-165A(3) expressly enumerates all materials that must be submitted as part of a complete application for a Small WCF.
- d. The Ordinance imposes design and development standards, including but not limited to a maximum height of 15 feet above the structure to which the Non-Tower WCF is attached, mandatory use of stealth technology to mitigate aesthetic impact, a maximum of 3 Non-Tower WCFs on a given support structure, and fencing of any required ground-mounted equipment buildings.

- e. The Ordinance prohibits the attachment of a Non-Tower WCF to any single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any residential accessory structure.
- f. The Ordinance requires that any applicant for a Non-Tower WCF present documentation to the Zoning Officer that the owner of the structure on which the WCF will be attached has authorized Collocation of the proposed Non-Tower WCF
- g. The Ordinance requires that any applicant for a Non-Tower WCF reimburse the Township for any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the Ordinance.
- h. The Ordinance requires the owner of any Non-Tower WCF to obtain and maintain 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 Non-Tower WCF

3. Specific Requirements for Tower-Based Wireless Communications Facilities

Section 280-166 of the Ordinance establishes requirements that are specific to Tower-Based WCFs in the Township. These requirements include, but are not limited to, the following:

- a. Tower-Based WCFs are permitted outside the public rights-of-way as a special exception in the following zoning districts: 1) AC Agricultural Conservation, 2) PLO Planned Laboratory Office, and 3) PLU Public Land Use. These are the same districts in which Tower-Based WCFs are permitted under the current Code requirements.
- b. Applications for Non-Tower WCFs will be submitted to and reviewed by the Township Zoning Hearing Board. The Township Zoning Officer will also provide all applications to the Township Planning Commission and Citizens Communications Council for additional review.
- c. Section 280-166A(3) expressly enumerates all materials that must be submitted as part of a complete application for a Tower-Based WCF.
- d. The Ordinance imposes specific design and development regulations for Tower-Based WCFs, including but not limited to a maximum height of 120 feet, mandatory setbacks of 100 feet from underground utility areas, 200 feet from any adjacent residential zoning district or property used for residential purposes, and 75% of the total height of the WCF from any adjoining property line or street right-of-way, and mandatory use of stealth technology in order to mitigate aesthetic impact. These requirements are retained from the current Code language.

- e. The Ordinance requires the owner of a Tower-Based WCF to preserve existing vegetation and submit a soil report along with the WCF application.
- f. The Ordinance requires a security fence with a maximum height of 8 feet to surround the entirety of the WCF site.
- g. The Ordinance permits equipment building with a maximum area of 500 square feet or its equivalent for any accessory equipment related to a Tower-Based WCF. The equipment building must be no more than 15 feet in height and must utilize stealth technology to minimize aesthetic impact.
- h. The Ordinance requires an applicant for a Tower-Based WCF to provide a written commitment that it will allow other service providers to collocate additional antennas on the Tower-Based WCF, which will serve to prevent unnecessary Tower-Based WCFs from being constructed.
- i. The Ordinance requires that any applicant for a Tower-Based WCF reimburse the Township for any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the Ordinance.
- j. The Ordinance requires the owner of any Tower-Based WCF to obtain and maintain general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF

4. Specific Requirements for Small Wireless Communications Facilities

Section 280-167 of the Ordinance establishes requirements that are specific to Small WCFs in the Township. The entirety of Section 280-167 is new language that has been added to address Small WCFs and the requirements of the 2018 Order and Act 50. Section 280-167 largely replaces the requirements of the existing Section 280-165 while adding substantial requirements that are required by the 2018 Order and Act 50. These new requirements include, but are not limited to, the following:

- a. As required by Act 50, the Ordinance allows Small WCFs as a permitted use in the rights-of-way in all zoning districts. Applications for Small WCFs are to be submitted to the Township Zoning Officer and, like other WCF applications, will be shared with the Township Planning Commission and Citizens Communications Council for additional review.
- b. Section 280-167A(3) expressly states all materials that must be submitted as part of a complete application for a Small WCF.
- c. In accordance with the requirements of Act 50, certain timeframes for review and decision on applications for Small WCFs are imposed by the Ordinance. The Township will have

10 business days to perform initial and supplemental reviews of the application for completeness. For final decision on an application for a Small WCF, the Township will have 60 calendar days for a Small WCF that is collocated on an existing structure and 90 calendar days for a Small WCF requiring the installation of a new or replacement structure. The Ordinance also reflects the timeframes for resubmission of a denied application as well as the timeframe for Township decision on a resubmitted application – both 30 days.

- d. In accordance with Act 50, the Ordinance establishes procedures and timeframes for the submission of batched applications of up to 20 collocated Small WCFs.
- e. The Ordinance establishes a hierarchy for the collocation of Small WCFs on Township-owned structures. In order from most preferable to least preferable, that hierarchy is as follows: 1) power poles, 2) traffic signage poles without traffic signals, 3) traffic signal poles, and 4) decorative light poles.
- f. The Ordinance requires all Small WCFs to comply with the *Small WCF Design Manual*, which establishes comprehensive, objective design requirements for Small WCFs as required by the 2018 Order and Act 50. All Small WCFs will be required to comply with both the requirements of the Ordinance and the *Small WCF Design Manual*.
- g. The Ordinance establishes the Township’s right to impose right-of-way use fees, as permitted by federal and state law. The “presumptively reasonable” level of such fees is \$270 per site per year, as currently imposed by the Township. Our firm recommends that the Township continue to charge fees at that level.
- k. The Ordinance requires the owner of any Small WCF to obtain and maintain 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 Small WCF.

5. Small Wireless Communications Facility Design Manual

In addition to the Ordinance, CLG and Township staff have prepared a *Small Wireless Communications Facility Design Manual* (“Design Manual”). This Design Manual meets the requirements of the 2018 Order that aesthetic requirements be “published in advance” and Act 50 that aesthetic requirements be “objective”. The Design Manual establishes comprehensive, objective requirements for the design of Small WCFs as required by federal and state law. The Design Manual is divided into subsections that are applicable to each of the major components of a Small WCF deployment. Those subsections address the following: 1) general Small WCF deployment design requirements, 2) requirements for antennas, accessory equipment, and wiring, 3) requirements for replacement wireless support structures, and 4) requirements for new wireless support structures. The Design Manual further establishes a process by which applicants may seek a waiver of any design requirement from the Township, which may be granted at the sole discretion of the Township.

Conclusion

Thank you for the opportunity to provide this memorandum regarding the Township's draft Ordinance and *Small Wireless Communications Facility Design Manual*. I look forward to discussing these issues with you.

**TOWNSHIP OF RADNOR
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF RADNOR, DELAWARE COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF ARTICLE XXVIII OF THE ZONING ORDINANCE OF THE TOWNSHIP OF RADNOR; PROVIDING FOR PURPOSES RELATED TO THE ADOPTION OF THE AMENDMENTS; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES, NON-TOWER WIRELESS COMMUNICATIONS FACILITIES, AND SMALL WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby ORDAINED by the Board of Commissioners of the Township of Radnor, Delaware County, Commonwealth of Pennsylvania, and it is hereby ENACTED and ORDAINED by authority of same as follows:

SECTION I. AMENDMENT OF WIRELESS COMMUNICATIONS FACILITIES PROVISIONS

Article XXVIII of the Radnor Township zoning ordinance is hereby repealed in its entirety and replaced with a new Article XXVIII entitled and provided for as follows:

Article XXVIII: *Wireless Communications Facilities*

§280-161 Intent.

The intent of this article is 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. Accommodate the need for *Wireless Communications Facilities* while regulating their location and number so as to ensure the provision of necessary services;

- C. Establish procedures for the design, siting, construction, installation, maintenance and removal of *Non-Tower Wireless Communications Facilities*, small *Wireless Communications Facilities*, and *Tower-Based Wireless Communications Facilities* in the Township, including facilities both inside and outside the public rights-of-way;
- D. Address new wireless technologies, including but not limited to, distributed *Antenna* systems, data collection units, *Small Wireless Communications Facilities*, cable Wi-Fi and other *Wireless Communications Facilities*;
- E. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services collocate their *Wireless Communications Facilities* on existing infrastructure; and
- F. Promote the health, safety and welfare of the Township's residents.

§280-162 Applicability.

- A. Unless expressly stated herein, wireless communications facilities for which a permit has been issued prior to the effective date of this article shall not be required to meet the minimum requirements of this article.
- B. This article shall not govern the installation of any amateur radio facility that is owned by a federally licensed amateur radio station operator or that is used exclusively for receive-only *Antennas*.
- C. This article shall supersede all conflicting requirements of other codes and ordinances regarding the location and permitting of *Wireless Communications Facilities*.

§280-163 Definitions.

As used in this article, the following terms shall have the meanings indicated:

- A. *Accessory Equipment*—any equipment serving or being used in conjunction with a *Wireless Communications Facility* or *Wireless Support Structure*, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- B. *Antenna* — an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

- C. *Collocation*—the mounting of one or more *WCFs*, including *Antennas*, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a *WCF* on that structure.
- D. *Equipment Compound*—an area surrounding or adjacent to a *Wireless Support Structure* within which base stations, power supplies, or *Accessory Equipment* are located.
- E. *FCC*—Federal Communications Commission.
- F. *Modification* or *Modify*—the improvement, upgrade or expansion of existing *Wireless Communications Facilities* or base stations on an existing *Wireless Support Structure* or the improvement, upgrade, or expansion of the *Wireless Communications Facilities* located within an existing *Equipment Compound*, if the improvement, upgrade, expansion or replacement does not *Substantially Change* the physical dimensions of the *Wireless Support Structure*.
- G. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—*Wireless Communications Facilities* that are *Collocated* on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower.
- H. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* -- the replacement of existing *Wireless Communications Facilities* on an existing *Wireless Support Structure* or within an existing *Equipment Compound* due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the *Wireless Communications Facilities* initially installed and that does not substantially change the physical dimensions of the existing *Wireless Support Structure*.
- I. *Small Wireless Communications Facility* – a *Wireless Communications Facility* that meets the following criteria:
 - (1) The *Wireless Support Structure* on which *Antenna* facilities are mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures, or
 - (iii) is not extended to a height of more than 50 feet or by more than 10 percent above its height prior to the *Collocation* of any *WCF* as a result of the *Collocation* of new *Antenna* facilities; and
 - (2) Each *Antenna* associated with the deployment (excluding the *Accessory Equipment*) is no more than three cubic feet in volume; and

(3) All *Accessory Equipment* associated with the *Wireless Support Structure* including the wireless equipment associated with the *Antenna* and any pre-existing associated equipment on the *Wireless Support Structure*, is cumulatively no more than 28 cubic feet in volume.

(4) The *Wireless Communications Facility* does not require *Antenna* structure registration under 47 CFR Part 17;

(5) The *Wireless Communications Facility* is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The *Wireless Communications Facility* does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

- J. *Stealth Technology* — Camouflaging methods applied to *Wireless Communications Facilities* and *Accessory Equipment* 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 *Antennas*, building-mounted *Antennas* painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
- K. *Substantial Change* – A modification substantially changes the physical dimensions of an support structure if it meets the criteria established by 47 CFR §1.6100.
- L. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—any structure that is used for the primary purpose of supporting one or more *Antennas*, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying *Antenna* and *Accessory Equipment*.
- M. *WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)*
- N. *Wireless Communications Facility (WCF)*— an *Antenna* facility or a *Wireless Support Structure* that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- O. *Wireless Communications Facility Applicant (WCF Applicant)* -- Any person that applies for a *Wireless Communications Facility* building permit, zoning approval and/or permission to use the public ROW or other Township-owned or third party land or property.
- P. *Wireless Support Structure*—a pole, tower, base station, or other building, whether or not it has an existing *Antenna* facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

§280-164 General Requirements for All *Wireless Communications Facilities*.

A. Standard of care.

- (1) All *WCFs* shall meet or exceed all applicable standards and provisions of the FAA, the *FCC* and any other agency of the state or federal government with the authority to regulate *Wireless Communications Facilities*, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the *WCF Applicant* and provided to the Township.
- (2) If such standards or regulations are changed, the owner of the *WCF* shall bring such *WCF* into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the *WCF* at the owner's expense.
- (3) The *WCF Applicant* shall submit proof of compliance with all applicable federal and state standards, including but not limited to those established by the Federal Communications Commission, as part of any complete *WCF* application.

B. Engineer signature. All plans and drawings included in an application for a *WCF* shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state and federal laws and regulations applicable to the proposed *WCF*.

C. Eligible Facilities Requests.

(1) *WCF Applicants* proposing a *Modification* to an existing *WCF* shall be required only to obtain permits of general applicability from the Township. In order to be considered for such permits, the *WCF Applicant* must submit permit applications to the Township in accordance with the requirements of the Township Code. Such permit applications shall clearly state that the proposed *Modification* constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit applications shall detail all dimensional changes being made to the *WCF* and *Wireless Support Structure*.

(2) Timing of Approval.

- (a) Within thirty (30) calendar days of receipt of an application for the *Modification* of an existing *WCF*, the Township Zoning Officer shall notify

the *WCF Applicant* in writing of any information that may be required to complete such application.

(b) Within sixty (60) days of receipt of a complete and compliant application for the *Modification* of an existing *WCF*, the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.

D. Wind and ice. All *WCFs* shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

E. Non-conforming *Wireless Support Structures*. *WCFs* shall be permitted to *Collocate* upon existing non-conforming *Wireless Support Structures*. *Collocation* of *WCFs* upon existing *Wireless Support Structures* is encouraged even if the existing *Wireless Support Structure* is non-conforming as to use within a zoning district.

F. Signs. All existing and new *WCFs* shall post a sign in a readily visible location on each major equipment component identifying the name and phone number of a party to contact in the event of an Emergency as well as the name and contact information of all wireless providers utilizing the *WCF*. The size and design of such signage shall be approved by the Township. The only other signage permitted on the *WCF* shall be those required by the *FCC*, or any other federal or state agency. No advertising may be permitted on any *WCF*.

G. Inspections; reports. Inspection reports shall be submitted to the Township by the owner of a *WCF* upon request to ensure structural integrity and compliance with applicable federal, state and local codes and regulations.

H. Notice. Within ten (10) days of submission of an application for a *WCF*, the *WCF Applicant* shall mail notice to all owners of property within 500 feet of the proposed *WCF*. The *WCF Applicant* shall provide proof of the notification to the Township.

G.I. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a *WCF*, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.

H.J. Performance Bond. The owner of a *WCF* obtain a performance bond in an amount sufficient to guarantee removal of the *WCF*. Evidence of such performance bond shall be provided to the Township as part of a complete *WCF* application.

L.K. Indemnification. Each person that owns or operates a *WCF* shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or 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 *WCF*. Each person that owns or operates a *WCF* 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 *WCF*. 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.

L.L. Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and *Antennas* for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Article XXVIII.

L.M. Historic Buildings. No *WCFs* may be located within one hundred (100) feet of any property, building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed under the Pennsylvania Historic District Act or Municipalities Planning Code, located within a historic district, or is included in the official historic structures list maintained by the Township.

L.N. Change in Ownership. If ownership of a *WCF* is transferred to a party other than the party designated as the owner on the application for the *WCF*, notice detailing the change in ownership shall be provided to the Township within thirty (30) days of such change in ownership.

L.O. Abandonment; Removal. In the event that use of a *WCF* and/or its dedicated *Accessory Equipment* is to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A *WCF* and/or dedicated *Accessory Equipment* not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned *WCFs*, or portions of *WCFs*, shall be removed as follows:

- (1) All abandoned or unused *WCFs* and *Accessory Equipment* shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the *WCF* has been deemed abandoned by the Township, unless a time extension is approved by the Township.

- (2) If the *WCF* or *Accessory Equipment* is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Township, the *WCF* and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the *WCF* regardless of the owner's or operator's intent to operate the *WCF* in the future.
- (3) The Township reserves the right to pursue all available remedies under the law to ensure removal of the *WCF* and restoration of the site at the expense of the owner. Any delay by the Township in taking action shall not invalidate the Township's right to take action.
- (4) Where there are two or more users of a single *WCF*, this provision shall not become effective until all users have terminated use of the *WCF* for a period of twelve (12) months.

N.P. Maintenance. The following maintenance requirements shall apply:

- (1) All *WCFs* shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.
- (2) Such maintenance shall be performed by the owner of the *WCF* to ensure the upkeep of the *WCF* in order to promote the safety and security of the Township's residents and in accordance with all applicable Township, state and federal regulations
- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents. Maintenance logs will be provided to the Township upon request.

O-Q. Timing of Approval. The following table details the applicable timeframe of approval for each type of *WCF* application:

Type of <i>WCF</i> /Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from receipt of initial application.
<i>Small WCF (Collocated)</i>	10 business days from receipt of initial or supplemental application.	60 total calendar days from

		receipt of initial application.
<i>Small WCF (New or Replacement Wireless Support Structure)</i>	10 business days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.
<i>Non-Tower WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 total calendar days from receipt of initial application.
<i>Tower-Based WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 total calendar days from receipt of initial application.

§280-165 Specific Requirements for *Non-Tower Wireless Communications Facilities*.

A. The following regulations shall apply to all *Non-Tower WCFs* that do not meet the definition of a *Small WCF*:

- (1) All *Non-Tower WCFs* shall be subject to the approval of the Township Design Review Board.
- (2) Permitted in Certain Districts. *Non-Tower WCFs* shall be permitted outside the public rights-of-way as a secondary use in the following zoning districts:
 - (a) R-5 Residential
 - (b) C-2 General Commercial
 - (c) C-3 Service Commercial
 - (d) PB Planned Business
 - (e) PLO Planned Laboratory Office
 - (f) PI Planned Industrial

(3) Application procedures.

- (a) Applications for *Non-Tower WCFs* shall be submitted to the Township Zoning Officer. The Township Zoning Officer shall provide all applications for *Non-Tower WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.
- (b) All applications for *Non-Tower WCFs* shall include the following information:
 - [i] The name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Non-Tower WCF*.
 - [ii] A site plan, drawn to scale, showing property boundaries, power location, total height of the *Non-Tower WCF*, the entirety of the structure upon which the *Non-Tower WCF* will be *Collocated*, and *Accessory Equipment* locations.
 - [iii] A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the *Non-Tower WCF*.
 - [iv] If the *Non-Tower WCF* is proposed for location on a *Wireless Support Structure* that currently supports existing *WCFs* or other attachments, the depiction shall show the location and dimensions of all such attachments.
 - [v] The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the *Non-Tower WCF*.
 - [vi] An aerial photograph of the proposed site showing the area within 500 feet of the *Non-Tower WCF*. The aerial photograph shall identify all structures within such radius.
 - [vii] Photo simulations depicting the *Non-Tower WCF* from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the *Non-Tower WCF*.
 - [viii] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed *Non-Tower WCF* and *Wireless Support Structure* are structurally sound and shall not endanger public health and safety.

[ix] A report by a qualified engineering expert which shows that the *Non-Tower WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

[x] A certificate of insurance as required by Section 280-165A(9).

[xi] Certification of the application's compliance with all requirements of this Section 280-165.

[xii] All application fees required by the Township as detailed in the Township fee schedule.

(4) Development Regulations.

- (a) The total height of any *Non-Tower WCF* shall not exceed fifteen (15) feet above the height of the *Wireless Support Structure* prior to the *Collocation* of any *WCFs*.
- (b) No more than three (3) *Non-Tower WCFs* shall be permitted on any single *Wireless Support Structure* for purposes of mitigating aesthetic impact. The Township may waive this requirement in its sole discretion.
- (c) In accordance with industry standards, all *Non-Tower WCF* applicants must submit documentation to the Township showing that the proposed *Non-Tower WCF* is designed to be the minimum height technically feasible and justifying the total height of the *Non-Tower WCF*.
- (d) If the *WCF Applicant* proposes to locate the *Accessory Equipment* in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (e) A security fence not to exceed eight (8) feet in height shall surround any separate communications equipment building if such communications equipment building is located at ground level. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(5) Design.

- (a) In order to assist in evaluating the visual impact, the *WCF Applicant* shall provide color photo simulations showing the proposed site of the *Non-Tower WCF* with a photo-realistic representation of the proposed *WCF* as it would appear viewed from the closest residential property, adjacent roads and from other locations as required by the Township.

- (b) *Non-Tower WCF* shall employ *Stealth Technology* and be treated to match the *Wireless Support Structure* in order to minimize aesthetic impact. The application of the *Stealth Technology* utilized by the *WCF Applicant* shall be subject to the approval of the Township.
 - (c) *Non-Tower WCFs* shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.
 - (d) *Non-Tower WCFs* and *Accessory Equipment* must be of a neutral color that is identical to or closely compatible with the *Wireless Support Structure* so as to make the *WCF* and *Accessory Equipment* as visually unobtrusive as possible. Roof-mounted *Non-Tower WCFs* shall match existing air-conditioning units, stairs, elevator towers or other background as nearly as possible.
- (6) Prohibited on Certain Structures. No *Non-Tower WCF* shall be located on single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any residential accessory structure.
- (7) Third Party *Wireless Support Structures*. Where the *Non-Tower WCF* is proposed for *Collocation* on a *Wireless Support Structure* that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present documentation to the Zoning Officer that the owner of the *Wireless Support Structure* has authorized *Collocation* of the proposed *Non-Tower WCF*.
- (8) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the *WCF* at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these *WCF* provisions. The *WCF* applicant and/or owner of the *WCF* shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities. At the sole discretion of the Township Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (9) Insurance. Each person that owns or operates a *Non-Tower WCF* shall annually 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 *Non-Tower WCF*.
- (10) *Substantial Change*. Any *Substantial Change* to a *WCF* shall require notice to be provided to the Township Zoning Officer, and possible supplemental permit approval as determined by the Township Zoning Officer in accordance with the Township Code.

(11) Timing of Approval.

- (a) Within thirty (30) calendar days of the date that an application for a *Non-Tower WCF* is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
- (b) Within ninety (90) days of receipt of a complete application for a *Non-Tower WCF*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.

§280-166 General and Specific Requirements for *Tower-Based Wireless Communications Facilities*.

A. The following regulations shall apply to all *Tower-Based Wireless Communications Facilities* that do not meet the definition of a *Small WCF*.

- (1) *Tower-Based WCFs* are permitted outside the public rights-of-way in the following zoning districts as a special exception, subject to the requirements of this Chapter:
 - (a) AC Agricultural Conservation
 - (b) PLO Planned Laboratory Office
 - (c) PLU Public Land Use
- (2) The Township shall provide all applications for *Tower-Based WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.
- (3) Special Exception Required. *Tower-Based WCFs* are permitted outside the public rights-of-way as a special exception and at a height necessary to satisfy their function in the *WCF Applicant's* wireless communications system, subject to the requirements of this Section 280-166.

~~(a) Upon submission of an application for a *Tower-Based WCF* and the scheduling of the public hearing upon the application, the *WCF Applicant* shall provide notice pursuant to Section 280-142(G) of the Township Zoning Ordinance.~~

~~(b)~~(a) Prior to the Zoning Hearing Boards' approval of a special exception authorizing the construction and installation of a *Tower-Based WCF*, it shall be incumbent upon the *WCF Applicant* for such special exception approval to prove to the reasonable satisfaction of the Zoning Hearing Board that the

WCF Applicant cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The *WCF Applicant* shall further demonstrate that the proposed *Tower-Based WCF* must be located where it is proposed in order to serve the *WCF Applicant's* service area and that no other viable, less-intrusive alternative location exists.

~~(e)~~(b) The special exception application shall include the name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Tower-Based WCF*.

~~(d)~~(c) The special exception application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the *Tower-Based WCF*, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.

~~(e)~~(d) The special exception application shall include aerial photographs of the area within a 500' radius of the proposed *Tower-Based WCF* and identify all existing *WCFs* in that area.

~~(f)~~(e) The special exception application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the *WCF Applicant*, the power in watts at which the *WCF Applicant* transmits, and any relevant related tests conducted by the *WCF Applicant* in determining the need for the proposed site and installation.

~~(g)~~(f) The special exception application shall include evidence that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of *WCF* being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Zoning Hearing Board's decision on an application for approval of *Tower-Based WCF*.

~~(h)~~(g) Where the *Tower-Based WCF* is located on a property that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present evidence to the Zoning Hearing Board that the owner of the property has granted an easement or other property right, if necessary, for the proposed *WCF* and that vehicular access will be provided to the facility.

~~(i)~~(h) The special exception application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed *WCF's* ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry

Association and certify the proper construction of the foundation and the erection of the structure.

~~(i)~~ (i) An application for a new *Tower-Based WCF* shall demonstrate that the proposed *Tower-Based WCF* cannot be accommodated on an existing *Wireless Support Structure*. Zoning Hearing Board may deny an application to construct a new *Tower-Based WCF* if the *WCF Applicant* has not made a good faith effort to mount the *Antenna(s)* on an existing *Wireless Support Structure*. The *WCF Applicant* shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one (1) mile radius of the site proposed, sought permission to install an *Antenna* on those structures, buildings, and towers and was denied for one of the following reasons:

- [i] No existing support structure, building or other structure are located within the geographic area which meet the applicant's engineering requirements.
- [ii] Existing support structures, buildings or other structures are not of sufficient height to meet the applicant's engineering requirements.
- [iii] Existing support structures, buildings or other structures do not have the strength to support the applicant's equipment.
- [iv] The applicant's equipment would cause electromagnetic interference with equipment on the existing support structure, building or other structure.
- [v] Fees, costs or contractual provisions required by the owner in order to share an existing location or to adapt for the applicant are unreasonable. Costs exceeding new construction for a support structure are presumed to be unreasonable.
- [vi] The applicant demonstrates that there are other limiting factors that render other locations unsuitable.
- [vii] The applicant demonstrates that an alternative technology that does not require the use of a support structure, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is not suitable. Costs of alternative technology that exceed costs for the construction of a *Wireless Support Structure* and *Antenna* development shall not be presumed to render the technology unsuitable.

~~(i)~~ (i) The special exception application shall include a report by a qualified engineering expert which shows that the *Tower-Based WCF* will

comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

~~(k)~~ (k) The special exception application shall also be accompanied by documentation demonstrating that the proposed *Tower-Based WCF* complies with all applicable provisions of this Article XXVIII.

(4) Development Regulations.

- (a) *Tower-Based WCFs* shall not be located in, or within one hundred (100) feet of an area in which all utilities are located underground.
- (b) In no case shall a *Tower-Based WCF* be located within 200 feet of any adjacent residential zoning district or property used for residential purposes.
- (c) Combined with another use. A *Tower-Based WCF* may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - [i] The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the *WCF*.
 - [ii] Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the *Tower-Based WCF* and *Accessory Equipment*, any guy wires, the equipment building, security fence, and applicable screening.

(5) Design Regulations.

- (a) Height. Any *Tower-Based WCF* shall be designed at the minimum functional height. The maximum total height of a *Tower-Based WCF* which is not located in the public ROW shall not exceed 120 feet, as measured vertically from the ground level to the highest point on the *Tower-Based WCF*, including *Antennas* and subsequent alterations.
- (b) Visual Appearance and Land Use Compatibility.
 - [i] *Tower-Based WCFs* shall employ *Stealth Technology* which may include the *Wireless Support Structure* being painted a certain color as approved by Zoning Hearing Board or utilizing a galvanized finish.
 - [ii] All *Tower-Based WCFs* and *Accessory Equipment* shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend

with the existing surroundings and neighboring buildings to the greatest extent possible.

[iii]The Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; prevent a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

(c) Anti-Climbing Device. If deemed necessary by the Zoning Hearing Board, a *Tower-Based WCF* shall be equipped with an anti-climbing device, as approved by the manufacturer.

(d) Minimum Setbacks. The minimum distance between the base of a *Tower-Based WCF* and any adjoining property line or street Right-of-Way line shall equal 75% of the proposed *WCF* structure's height or the applicable principal building setback, whichever is greater, unless the *Applicant* shows to the satisfaction of Zoning Hearing Board that the proposed *Tower-Based WCF* has been designed in such a manner that a lesser setback will have no negative effects on public safety.

(6) Surrounding Environs.

(a) The *WCF Applicant* shall ensure that the existing vegetation, trees and shrubs located within proximity to the *WCF* structure shall be preserved to the maximum extent possible.

(b) The *WCF Applicant* shall submit a soil report to Zoning Hearing Board complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the *Tower-Based WCF*, and anchors for guy wires, if used.

(7) Fence/Screen.

(a) A security fence having a height not to exceed eight (8) feet shall completely surround any *Tower-Based WCF* located outside the Public Rights-of-Way, as well as *Accessory Equipment*, guy wires, or any building housing *Accessory Equipment*.

(b) Landscaping shall be required to screen as much of a newly constructed *Tower-Based WCF* as possible. Zoning Hearing Board may permit any

combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of Zoning Hearing Board, they achieve the same degree of screening.

(8) *Accessory Equipment.*

- (a) *Accessory Equipment* shall not intrude into the minimum setback requirements for the district in which the wireless communication facility is located or exceed a maximum height of 15 feet.
 - (b) Ground-mounted *Accessory Equipment* associated or connected with a *Tower-Based WCF* shall not be located within two-hundred (200) feet of a lot in residential use.
 - (c) *Accessory Equipment* associated, or connected, with a *Tower-Based WCF* shall be placed underground or screened from public view using *Stealth Technology*. All ground-mounted *Accessory Equipment*, utility buildings and accessory structures shall be architecturally designed to be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding buildings, structures or landscape.
 - (d) Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing *Antenna* space on the *Tower-Based WCF*.
- (9) *Additional Antennas.* As a condition of approval for all *Tower-Based WCFs*, the *WCF Applicant* shall provide the Zoning Hearing Board with a written commitment that it will allow other service providers to *Collocate Antennas* on the *Tower-Based WCF* where technically and economically feasible. To the extent permissible under state and federal law, the owner of a *Tower-Based WCF* shall not install any additional *Antennas* without complying with the applicable requirements of this Article XXVIII.
- (10) *FCC License.* Each person that owns or operates a *Tower-Based WCF* shall submit a copy of its current *FCC* license, including the name, address, and Emergency telephone number for the operator of the facility.
- (11) *Lighting.* No *Tower-Based WCF* shall be artificially lighted, except as required by law. If lighting is required, the *WCF Applicant* shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The *WCF Applicant* shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.

- (12) Storage. The storage of unused equipment, materials or supplies is prohibited on any *Tower-Based WCF* site.
- (13) Repair of Non-Conforming *Tower-Based WCF*. Non-conforming *Tower-Based WCFs* which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this section. The *Collocation of Antennas* is permitted on non-conforming structures.
- (14) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the *WCF* at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these *WCF* provisions. The *WCF* applicant and/or owner of the *WCF* shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities. At the sole discretion of the Township Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (15) Insurance. Each person that owns or operates a *Tower-Based WCF* shall provide the Township Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the *Tower-Based WCF*.
- (16) Timing of Approval.
- (a) Within thirty (30) calendar days of the date that an application for a *Tower-Based WCF* is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
- (b) Within one hundred fifty (150) days of receipt of a complete application for a *Tower-Based WCF*, Zoning Hearing Board shall make a decision to approve or deny the proposed *Tower-Based WCF* and the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.

§280-167 Regulations Applicable to all *Small Wireless Communications Facilities*. The following regulations shall apply to *Small Wireless Communications Facilities*:

A. Application Procedures.

- (1) *Small WCFs* shall be a permitted use in all Township zoning districts, subject to the requirements of this Section 280-167 and generally applicable permitting as required by the Township Code.

(2) Applications for *Small WCFs* shall be submitted to the Township Zoning Officer. The Township Zoning Officer shall provide all applications for *Small WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.

(3) Applications for *Small WCFs* shall include the following:

(a) The name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Small WCF*.

~~(b)~~ A cover letter detailing the location of the proposed site, all equipment being proposed as part of the *Small WCF*, and a certification that the *WCF Applicant* has included all information required by the Township Code, signed by a representative of the *WCF Applicant*.

~~(b)~~~~(c)~~ A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the *Small WCF*.

[1] If the *Small WCF* is proposed for location on an existing or replacement *Wireless Support Structure* that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.

[2] If installation of a new or replacement *Wireless Support Structure* is being proposed, the depiction shall include the color, dimensions, material and type of *Wireless Support Structure* proposed.

~~(e)~~~~(d)~~ The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the *Small WCF*.

~~(d)~~~~(e)~~ An aerial photograph of the proposed site showing the area within 500 feet of the *Small WCF*. The aerial photograph shall identify all structures within such radius.

~~(e)~~~~(f)~~ Photo simulations depicting the *Small WCF* from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the *Small WCF*.

~~(f)~~(g) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed *Small WCF* and *Wireless Support Structure* are structurally sound and shall not endanger public health and safety.

~~(g)~~(h) A report by a qualified engineering expert which shows that the *Small WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

~~(h)~~(i) A certificate of insurance as required by Section 280-167J.

~~(i)~~(j) Certification of the application's compliance with all requirements of this Section 280-167.

~~(j)~~(k) All application fees required by the Township as detailed in the Township fee schedule.

(4) Timing of Approval.

- (a) Within ten (10) business days of the date that an application for a *Small WCF* is filed with the Township Zoning Officer, the Township shall notify the *WCF Applicant* in writing of any information that may be required to complete such application. The applicant may then resubmit its application, at which point the applicable timeframe for approval shall restart. Any subsequent notice of incompleteness shall be issued within ten (10) business days of receipt of a resubmitted application and shall toll the applicable timeframe for approval until such time as the application is resubmitted.
- (b) Within sixty (60) days of receipt of an application for *Collocation* of a *Small WCF* on a preexisting *Wireless Support Structure*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
- (c) Within ninety (90) days of receipt of an application for a *Small WCF* requiring the installation of a new or replacement *Wireless Support Structure*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
- (d) If the Township denies an application for a *Small WCF*, the Township shall provide the *WCF Applicant* with written documentation of the basis for denial, including the specific provisions of the Township Code on which the denial was based, within five (5) business days of the denial.

(e) The *WCF Applicant* may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.

(5) Consolidated applications. A single *WCF Applicant* may not submit more than one consolidated or 20 single applications for *Collocated Small WCFs* in a 30-day period. If the Township receives more than one consolidated application or 20 single applications within a 45-day period, the applicable timeframe under Section 280-167A(4) shall be extended by 15 days.

B. Location and development standards.

(1) *Small WCFs* in the public ROW requiring the installation of a new *Wireless Support Structure* shall not be located in front of any building entrance or exit.

(2) All *Small WCFs* shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.

C. Time, Place and Manner. Once approved, the Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all *Small WCFs* in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

D. Attachment to municipal structures. The Township shall allow the *Collocation* of *Small WCFs* to structures owned by the Township in accordance with the hierarchy detailed in this section. If the *WCF Applicant* is proposing the *Collocation* of a *Small WCF* on a lower priority structure, it shall be a condition to the approval of the application that the *WCF Applicant* provide evidence that *Collocation* on a higher priority structure or *Wireless Support Structure* owned by a third-party is not *Technically Feasible*. In order from most preferable to least preferable, the Township's *Collocation* preferences are as follows.

(1) Power poles;

(2) Traffic signage poles without traffic signals;

(3) Traffic signal poles;

(4) Decorative light poles.

E. Obstruction. *Small WCFs* and *Accessory Equipment* shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to

pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township.

- F. Graffiti. Any graffiti on a *Small WCF*, including the *Wireless Support Structure* and any *Accessory Equipment*, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Township.
- G. Design standards. All *Small WCFs* in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Township Department of Community Development.
- H. Obsolete equipment. As part of the construction, *Modification* or *Replacement* of a *Small WCF*, the *WCF Applicant* shall remove any obsolete or abandoned equipment from the *Wireless Support Structure*.
- I. Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a *Small WCF* in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any *WCF* when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (2) The operations of the Township or other governmental entity in the Right-of-Way;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An emergency that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Township.
- J. Time limit for completion of construction. The proposed *Collocation*, the *Modification* or *Replacement* of a *Wireless Support Structure* or the installation of a new *Wireless Support Structure* with *Small WCF* attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the Township and the *WCF Applicant* agree in writing to extend the period.
- K. Reimbursement for ROW Use. In addition to permit fees as described in this section, every *Small WCF* in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each *Small WCF* shall pay an annual fee to the Township to compensate the Township for the

**TOWNSHIP OF RADNOR
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF RADNOR, DELAWARE COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF ARTICLE XXVIII OF THE ZONING ORDINANCE OF THE TOWNSHIP OF RADNOR; PROVIDING FOR PURPOSES RELATED TO THE ADOPTION OF THE AMENDMENTS; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES, NON-TOWER WIRELESS COMMUNICATIONS FACILITIES, AND SMALL WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Commissioners of the Township of Radnor, Delaware County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I. AMENDMENT OF WIRELESS COMMUNICATIONS FACILITIES PROVISIONS

Article XXVIII of the Radnor Township zoning ordinance is hereby repealed in its entirety and replaced with a new Article XXVIII entitled and provided for as follows:

Article XXVIII: *Wireless Communications Facilities*

§280-161 Intent.

The intent of this article is 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. Accommodate the need for *Wireless Communications Facilities* while regulating their location and number so as to ensure the provision of necessary services;

- C. Establish procedures for the design, siting, construction, installation, maintenance and removal of *Non-Tower Wireless Communications Facilities*, small *Wireless Communications Facilities*, and *Tower-Based Wireless Communications Facilities* in the Township, including facilities both inside and outside the public rights-of-way;
- D. Address new wireless technologies, including but not limited to, distributed *Antenna* systems, data collection units, *Small Wireless Communications Facilities*, cable Wi-Fi and other *Wireless Communications Facilities*;
- E. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services collocate their *Wireless Communications Facilities* on existing infrastructure; and
- F. Promote the health, safety and welfare of the Township's residents.

§280-162 Applicability.

- A. Unless expressly stated herein, wireless communications facilities for which a permit has been issued prior to the effective date of this article shall not be required to meet the minimum requirements of this article.
- B. This article shall not govern the installation of any amateur radio facility that is owned by a federally licensed amateur radio station operator or that is used exclusively for receive-only *Antennas*.
- C. This article shall supersede all conflicting requirements of other codes and ordinances regarding the location and permitting of *Wireless Communications Facilities*.

§280-163 Definitions.

As used in this article, the following terms shall have the meanings indicated:

- A. *Accessory Equipment*—any equipment serving or being used in conjunction with a *Wireless Communications Facility* or *Wireless Support Structure*, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- B. *Antenna* — an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

- C. *Collocation*—the mounting of one or more *WCFs*, including *Antennas*, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a *WCF* on that structure.
- D. *Equipment Compound*—an area surrounding or adjacent to a *Wireless Support Structure* within which base stations, power supplies, or *Accessory Equipment* are located.
- E. *FCC*—Federal Communications Commission.
- F. *Modification* or *Modify*—the improvement, upgrade or expansion of existing *Wireless Communications Facilities* or base stations on an existing *Wireless Support Structure* or the improvement, upgrade, or expansion of the *Wireless Communications Facilities* located within an existing *Equipment Compound*, if the improvement, upgrade, expansion or replacement does not *Substantially Change* the physical dimensions of the *Wireless Support Structure*.
- G. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—*Wireless Communications Facilities* that are *Collocated* on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower.
- H. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* -- the replacement of existing *Wireless Communications Facilities* on an existing *Wireless Support Structure* or within an existing *Equipment Compound* due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the *Wireless Communications Facilities* initially installed and that does not substantially change the physical dimensions of the existing *Wireless Support Structure*.
- I. *Small Wireless Communications Facility* – a *Wireless Communications Facility* that meets the following criteria:
 - (1) The *Wireless Support Structure* on which *Antenna* facilities are mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures, or
 - (iii) is not extended to a height of more than 50 feet or by more than 10 percent above its height prior to the *Collocation* of any *WCF* as a result of the *Collocation* of new *Antenna* facilities; and
 - (2) Each *Antenna* associated with the deployment (excluding the *Accessory Equipment*) is no more than three cubic feet in volume; and

(3) All *Accessory Equipment* associated with the *Wireless Support Structure* including the wireless equipment associated with the *Antenna* and any pre-existing associated equipment on the *Wireless Support Structure*, is cumulatively no more than 28 cubic feet in volume.

(4) The *Wireless Communications Facility* does not require *Antenna* structure registration under 47 CFR Part 17;

(5) The *Wireless Communications Facility* is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The *Wireless Communications Facility* does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

- J. *Stealth Technology* — Camouflaging methods applied to *Wireless Communications Facilities* and *Accessory Equipment* 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 *Antennas*, building-mounted *Antennas* painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
- K. *Substantial Change* – A modification substantially changes the physical dimensions of an support structure if it meets the criteria established by 47 CFR §1.6100.
- L. *Tower-Based Wireless Communications Facility (Tower-Based WCF)*—any structure that is used for the primary purpose of supporting one or more *Antennas*, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying *Antenna* and *Accessory Equipment*.
- M. *WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)*
- N. *Wireless Communications Facility (WCF)*— an *Antenna* facility or a *Wireless Support Structure* that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- O. *Wireless Communications Facility Applicant (WCF Applicant)* -- Any person that applies for a *Wireless Communications Facility* building permit, zoning approval and/or permission to use the public ROW or other Township-owned or third party land or property.
- P. *Wireless Support Structure*—a pole, tower, base station, or other building, whether or not it has an existing *Antenna* facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

§280-164 *General Requirements for All Wireless Communications Facilities.*

A. Standard of care.

- (1) All *WCFs* shall meet or exceed all applicable standards and provisions of the FAA, the *FCC* and any other agency of the state or federal government with the authority to regulate *Wireless Communications Facilities*, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the *WCF Applicant* and provided to the Township.
- (2) If such standards or regulations are changed, the owner of the *WCF* shall bring such *WCF* into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the *WCF* at the owner's expense.
- (3) The *WCF Applicant* shall submit proof of compliance with all applicable federal and state standards, including but not limited to those established by the Federal Communications Commission, as part of any complete *WCF* application.

B. Engineer signature. All plans and drawings included in an application for a *WCF* shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state and federal laws and regulations applicable to the proposed *WCF*.

C. Eligible Facilities Requests.

(1) *WCF Applicants* proposing a *Modification* to an existing *WCF* shall be required only to obtain permits of general applicability from the Township. In order to be considered for such permits, the *WCF Applicant* must submit permit applications to the Township in accordance with the requirements of the Township Code. Such permit applications shall clearly state that the proposed *Modification* constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit applications shall detail all dimensional changes being made to the *WCF* and *Wireless Support Structure*.

(2) Timing of Approval.

- (a) Within thirty (30) calendar days of receipt of an application for the *Modification* of an existing *WCF*, the Township Zoning Officer shall notify

the *WCF Applicant* in writing of any information that may be required to complete such application.

(b) Within sixty (60) days of receipt of a complete and compliant application for the *Modification* of an existing *WCF*, the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.

- D. Wind and ice. All *WCFs* shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- E. Non-conforming *Wireless Support Structures*. *WCFs* shall be permitted to *Collocate* upon existing non-conforming *Wireless Support Structures*. *Collocation* of *WCFs* upon existing *Wireless Support Structures* is encouraged even if the existing *Wireless Support Structure* is non-conforming as to use within a zoning district.
- F. Signs. All existing and new *WCFs* shall post a sign in a readily visible location on each major equipment component identifying the name and phone number of a party to contact in the event of an Emergency as well as the name and contact information of all wireless providers utilizing the *WCF*. The size and design of such signage shall be approved by the Township. The only other signage permitted on the *WCF* shall be those required by the *FCC*, or any other federal or state agency. No advertising may be permitted on any *WCF*.
- G. Inspections; reports. Inspection reports shall be submitted to the Township by the owner of a *WCF* upon request to ensure structural integrity and compliance with applicable federal, state and local codes and regulations.
- H. Notice. Within ten (10) days of submission of an application for a *WCF*, the *WCF Applicant* shall mail notice to all owners of property within 500 feet of the proposed *WCF*. The *WCF Applicant* shall provide proof of the notification to the Township.
- I. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a *WCF*, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.
- J. Performance Bond. The owner of a *WCF* obtain a performance bond in an amount sufficient to guarantee removal of the *WCF*. Evidence of such performance bond shall be provided to the Township as part of a complete *WCF* application.

- K. Indemnification. Each person that owns or operates a *WCF* shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or 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 *WCF*. Each person that owns or operates a *WCF* 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 *WCF*. 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.
- L. Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and *Antennas* for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Article XXVIII.
- M. Historic Buildings. No *WCFs* may be located within one hundred (100) feet of any property, building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed under the Pennsylvania Historic District Act or Municipalities Planning Code, located within a historic district, or is included in the official historic structures list maintained by the Township.
- N. Change in Ownership. If ownership of a *WCF* is transferred to a party other than the party designated as the owner on the application for the *WCF*, notice detailing the change in ownership shall be provided to the Township within thirty (30) days of such change in ownership.
- O. Abandonment; Removal. In the event that use of a *WCF* and/or its dedicated *Accessory Equipment* is to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A *WCF* and/or dedicated *Accessory Equipment* not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned *WCFs*, or portions of *WCFs*, shall be removed as follows:
- (1) All abandoned or unused *WCFs* and *Accessory Equipment* shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the *WCF* has been deemed abandoned by the Township, unless a time extension is approved by the Township.

- (2) If the *WCF* or *Accessory Equipment* is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Township, the *WCF* and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the *WCF* regardless of the owner's or operator's intent to operate the *WCF* in the future.
- (3) The Township reserves the right to pursue all available remedies under the law to ensure removal of the *WCF* and restoration of the site at the expense of the owner. Any delay by the Township in taking action shall not invalidate the Township's right to take action.
- (4) Where there are two or more users of a single *WCF*, this provision shall not become effective until all users have terminated use of the *WCF* for a period of twelve (12) months.

P. Maintenance. The following maintenance requirements shall apply:

- (1) All *WCFs* shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.
- (2) Such maintenance shall be performed by the owner of the *WCF* to ensure the upkeep of the *WCF* in order to promote the safety and security of the Township's residents and in accordance with all applicable Township, state and federal regulations
- (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents. Maintenance logs will be provided to the Township upon request.

Q. Timing of Approval. The following table details the applicable timeframe of approval for each type of *WCF* application:

Type of <i>WCF</i> /Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from receipt of initial application.
<i>Small WCF (Collocated)</i>	10 business days from receipt of initial or supplemental application.	60 total calendar days from

		receipt of initial application.
<i>Small WCF (New or Replacement Wireless Support Structure)</i>	10 business days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.
<i>Non-Tower WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 total calendar days from receipt of initial application.
<i>Tower-Based WCF</i>	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 total calendar days from receipt of initial application.

§280-165 Specific Requirements for *Non-Tower Wireless Communications Facilities*.

A. The following regulations shall apply to all *Non-Tower WCFs* that do not meet the definition of a *Small WCF*:

- (1) All *Non-Tower WCFs* shall be subject to the approval of the Township Design Review Board.
- (2) Permitted in Certain Districts. *Non-Tower WCFs* shall be permitted outside the public rights-of-way as a secondary use in the following zoning districts:
 - (a) R-5 Residential
 - (b) C-2 General Commercial
 - (c) C-3 Service Commercial
 - (d) PB Planned Business
 - (e) PLO Planned Laboratory Office
 - (f) PI Planned Industrial

(3) Application procedures.

- (a) Applications for *Non-Tower WCFs* shall be submitted to the Township Zoning Officer. The Township Zoning Officer shall provide all applications for *Non-Tower WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.
- (b) All applications for *Non-Tower WCFs* shall include the following information:
 - [i] The name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Non-Tower WCF*.
 - [ii] A site plan, drawn to scale, showing property boundaries, power location, total height of the *Non-Tower WCF*, the entirety of the structure upon which the *Non-Tower WCF* will be *Collocated*, and *Accessory Equipment* locations.
 - [iii] A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the *Non-Tower WCF*.
 - [iv] If the *Non-Tower WCF* is proposed for location on a *Wireless Support Structure* that currently supports existing *WCFs* or other attachments, the depiction shall show the location and dimensions of all such attachments.
 - [v] The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the *Non-Tower WCF*.
 - [vi] An aerial photograph of the proposed site showing the area within 500 feet of the *Non-Tower WCF*. The aerial photograph shall identify all structures within such radius.
 - [vii] Photo simulations depicting the *Non-Tower WCF* from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the *Non-Tower WCF*.
 - [viii] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed *Non-Tower WCF* and *Wireless Support Structure* are structurally sound and shall not endanger public health and safety.

[ix] A report by a qualified engineering expert which shows that the *Non-Tower WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

[x] A certificate of insurance as required by Section 280-165A(9).

[xi] Certification of the application's compliance with all requirements of this Section 280-165.

[xii] All application fees required by the Township as detailed in the Township fee schedule.

(4) Development Regulations.

- (a) The total height of any *Non-Tower WCF* shall not exceed fifteen (15) feet above the height of the *Wireless Support Structure* prior to the *Collocation* of any *WCFs*.
- (b) No more than three (3) *Non-Tower WCFs* shall be permitted on any single *Wireless Support Structure* for purposes of mitigating aesthetic impact. The Township may waive this requirement in its sole discretion.
- (c) In accordance with industry standards, all *Non-Tower WCF* applicants must submit documentation to the Township showing that the proposed *Non-Tower WCF* is designed to be the minimum height technically feasible and justifying the total height of the *Non-Tower WCF*.
- (d) If the *WCF Applicant* proposes to locate the *Accessory Equipment* in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- (e) A security fence not to exceed eight (8) feet in height shall surround any separate communications equipment building if such communications equipment building is located at ground level. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(5) Design.

- (a) In order to assist in evaluating the visual impact, the *WCF Applicant* shall provide color photo simulations showing the proposed site of the *Non-Tower WCF* with a photo-realistic representation of the proposed *WCF* as it would appear viewed from the closest residential property, adjacent roads and from other locations as required by the Township.

- (b) *Non-Tower WCF* shall employ *Stealth Technology* and be treated to match the *Wireless Support Structure* in order to minimize aesthetic impact. The application of the *Stealth Technology* utilized by the *WCF Applicant* shall be subject to the approval of the Township.
 - (c) *Non-Tower WCFs* shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.
 - (d) *Non-Tower WCFs* and *Accessory Equipment* must be of a neutral color that is identical to or closely compatible with the *Wireless Support Structure* so as to make the *WCF* and *Accessory Equipment* as visually unobtrusive as possible. Roof-mounted *Non-Tower WCFs* shall match existing air-conditioning units, stairs, elevator towers or other background as nearly as possible.
- (6) Prohibited on Certain Structures. No *Non-Tower WCF* shall be located on single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any residential accessory structure.
- (7) Third Party *Wireless Support Structures*. Where the *Non-Tower WCF* is proposed for *Collocation* on a *Wireless Support Structure* that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present documentation to the Zoning Officer that the owner of the *Wireless Support Structure* has authorized *Collocation* of the proposed *Non-Tower WCF*.
- (8) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the *WCF* at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these *WCF* provisions. The *WCF* applicant and/or owner of the *WCF* shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities. At the sole discretion of the Township Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (9) Insurance. Each person that owns or operates a *Non-Tower WCF* shall annually 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 *Non-Tower WCF*.
- (10) *Substantial Change*. Any *Substantial Change* to a *WCF* shall require notice to be provided to the Township Zoning Officer, and possible supplemental permit approval as determined by the Township Zoning Officer in accordance with the Township Code.

(11) Timing of Approval.

- (a) Within thirty (30) calendar days of the date that an application for a *Non-Tower WCF* is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
- (b) Within ninety (90) days of receipt of a complete application for a *Non-Tower WCF*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.

§280-166 *General and Specific Requirements for Tower-Based Wireless Communications Facilities.*

A. The following regulations shall apply to all *Tower-Based Wireless Communications Facilities* that do not meet the definition of a *Small WCF*.

- (1) *Tower-Based WCFs* are permitted outside the public rights-of-way in the following zoning districts as a special exception, subject to the requirements of this Chapter:
 - (a) AC Agricultural Conservation
 - (b) PLO Planned Laboratory Office
 - (c) PLU Public Land Use
- (2) The Township shall provide all applications for *Tower-Based WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.
- (3) Special Exception Required. *Tower-Based WCFs* are permitted outside the public rights-of-way as a special exception and at a height necessary to satisfy their function in the *WCF Applicant's* wireless communications system, subject to the requirements of this Section 280-166.
 - (a) Prior to the Zoning Hearing Boards' approval of a special exception authorizing the construction and installation of a *Tower-Based WCF*, it shall be incumbent upon the *WCF Applicant* for such special exception approval to prove to the reasonable satisfaction of the Zoning Hearing Board that the *WCF Applicant* cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The *WCF Applicant* shall further demonstrate that the proposed *Tower-Based WCF*

must be located where it is proposed in order to serve the *WCF Applicant's* service area and that no other viable, less-intrusive alternative location exists.

- (b) The special exception application shall include the name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Tower-Based WCF*.
- (c) The special exception application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the *Tower-Based WCF*, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.
- (d) The special exception application shall include aerial photographs of the area within a 500' radius of the proposed *Tower-Based WCF* and identify all existing *WCFs* in that area.
- (e) The special exception application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the *WCF Applicant*, the power in watts at which the *WCF Applicant* transmits, and any relevant related tests conducted by the *WCF Applicant* in determining the need for the proposed site and installation.
- (f) The special exception application shall include evidence that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of *WCF* being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Zoning Hearing Board's decision on an application for approval of *Tower-Based WCF*.
- (g) Where the *Tower-Based WCF* is located on a property that is not owned by the *WCF Applicant*, the *WCF Applicant* shall present evidence to the Zoning Hearing Board that the owner of the property has granted an easement or other property right, if necessary, for the proposed *WCF* and that vehicular access will be provided to the facility.
- (h) The special exception application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed *WCF's* ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.

- (i) An application for a new *Tower-Based WCF* shall demonstrate that the proposed *Tower-Based WCF* cannot be accommodated on an existing *Wireless Support Structure*. Zoning Hearing Board may deny an application to construct a new *Tower-Based WCF* if the *WCF Applicant* has not made a good faith effort to mount the *Antenna(s)* on an existing *Wireless Support Structure*. The *WCF Applicant* shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one (1) mile radius of the site proposed, sought permission to install an *Antenna* on those structures, buildings, and towers and was denied for one of the following reasons:
- [i] No existing support structure, building or other structure are located within the geographic area which meet the applicant's engineering requirements.
 - [ii] Existing support structures, buildings or other structures are not of sufficient height to meet the applicant's engineering requirements.
 - [iii] Existing support structures, buildings or other structures do not have the strength to support the applicant's equipment.
 - [iv] The applicant's equipment would cause electromagnetic interference with equipment on the existing support structure, building or other structure.
 - [v] Fees, costs or contractual provisions required by the owner in order to share an existing location or to adapt for the applicant are unreasonable. Costs exceeding new construction for a support structure are presumed to be unreasonable.
 - [vi] The applicant demonstrates that there are other limiting factors that render other locations unsuitable.
 - [vii] The applicant demonstrates that an alternative technology that does not require the use of a support structure, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is not suitable. Costs of alternative technology that exceed costs for the construction of a *Wireless Support Structure* and *Antenna* development shall not be presumed to render the technology unsuitable.
- (j) The special exception application shall include a report by a qualified engineering expert which shows that the *Tower-Based WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

- (k) The special exception application shall also be accompanied by documentation demonstrating that the proposed *Tower-Based WCF* complies with all applicable provisions of this Article XXVIII.

(4) Development Regulations.

- (a) *Tower-Based WCFs* shall not be located in, or within one hundred (100) feet of an area in which all utilities are located underground.
- (b) In no case shall a *Tower-Based WCF* be located within 200 feet of any adjacent residential zoning district or property used for residential purposes.
- (c) Combined with another use. A *Tower-Based WCF* may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - [i] The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the *WCF*.
 - [ii] Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the *Tower-Based WCF* and *Accessory Equipment*, any guy wires, the equipment building, security fence, and applicable screening.

(5) Design Regulations.

- (a) Height. Any *Tower-Based WCF* shall be designed at the minimum functional height. The maximum total height of a *Tower-Based WCF* which is not located in the public ROW shall not exceed 120 feet, as measured vertically from the ground level to the highest point on the *Tower-Based WCF*, including *Antennas* and subsequent alterations.
- (b) Visual Appearance and Land Use Compatibility.
 - [i] *Tower-Based WCFs* shall employ *Stealth Technology* which may include the *Wireless Support Structure* being painted a certain color as approved by Zoning Hearing Board or utilizing a galvanized finish.
 - [ii] All *Tower-Based WCFs* and *Accessory Equipment* shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.

[iii]The Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; prevent a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

- (c) Anti-Climbing Device. If deemed necessary by the Zoning Hearing Board, a *Tower-Based WCF* shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (d) Minimum Setbacks. The minimum distance between the base of a *Tower-Based WCF* and any adjoining property line or street Right-of-Way line shall equal 75% of the proposed *WCF* structure's height or the applicable principal building setback, whichever is greater, unless the *Applicant* shows to the satisfaction of Zoning Hearing Board that the proposed *Tower-Based WCF* has been designed in such a manner that a lesser setback will have no negative effects on public safety.

(6) Surrounding Environs.

- (a) The *WCF Applicant* shall ensure that the existing vegetation, trees and shrubs located within proximity to the *WCF* structure shall be preserved to the maximum extent possible.
- (b) The *WCF Applicant* shall submit a soil report to Zoning Hearing Board complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the *Tower-Based WCF*, and anchors for guy wires, if used.

(7) Fence/Screen.

- (a) A security fence having a height not to exceed eight (8) feet shall completely surround any *Tower-Based WCF* located outside the Public Rights-of-Way, as well as *Accessory Equipment*, guy wires, or any building housing *Accessory Equipment*.
- (b) Landscaping shall be required to screen as much of a newly constructed *Tower-Based WCF* as possible. Zoning Hearing Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of Zoning Hearing Board, they achieve the same degree of screening.

(8) *Accessory Equipment.*

- (a) *Accessory Equipment* shall not intrude into the minimum setback requirements for the district in which the wireless communication facility is located or exceed a maximum height of 15 feet.
 - (b) Ground-mounted *Accessory Equipment* associated or connected with a *Tower-Based WCF* shall not be located within two-hundred (200) feet of a lot in residential use.
 - (c) *Accessory Equipment* associated, or connected, with a *Tower-Based WCF* shall be placed underground or screened from public view using *Stealth Technology*. All ground-mounted *Accessory Equipment*, utility buildings and accessory structures shall be architecturally designed to be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding buildings, structures or landscape.
 - (d) Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing *Antenna* space on the *Tower-Based WCF*.
- (9) *Additional Antennas.* As a condition of approval for all *Tower-Based WCFs*, the *WCF Applicant* shall provide the Zoning Hearing Board with a written commitment that it will allow other service providers to *Collocate Antennas* on the *Tower-Based WCF* where technically and economically feasible. To the extent permissible under state and federal law, the owner of a *Tower-Based WCF* shall not install any additional *Antennas* without complying with the applicable requirements of this Article XXVIII.
- (10) *FCC License.* Each person that owns or operates a *Tower-Based WCF* shall submit a copy of its current *FCC* license, including the name, address, and Emergency telephone number for the operator of the facility.
- (11) *Lighting.* No *Tower-Based WCF* shall be artificially lighted, except as required by law. If lighting is required, the *WCF Applicant* shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The *WCF Applicant* shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.
- (12) *Storage.* The storage of unused equipment, materials or supplies is prohibited on any *Tower-Based WCF* site.

- (13) Repair of Non-Conforming *Tower-Based WCF*. Non-conforming *Tower-Based WCFs* which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this section. The *Collocation of Antennas* is permitted on non-conforming structures.
- (14) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the *WCF* at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these *WCF* provisions. The *WCF* applicant and/or owner of the *WCF* shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities. At the sole discretion of the Township Zoning Officer, the establishment of a Professional Services Agreement may be required.
- (15) Insurance. Each person that owns or operates a *Tower-Based WCF* shall provide the Township Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the *Tower-Based WCF*.
- (16) Timing of Approval.
- (a) Within thirty (30) calendar days of the date that an application for a *Tower-Based WCF* is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the *WCF Applicant* in writing of any information that may be required to complete such application.
- (b) Within one hundred fifty (150) days of receipt of a complete application for a *Tower-Based WCF*, Zoning Hearing Board shall make a decision to approve or deny the proposed *Tower-Based WCF* and the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the *WCF*.

§280-167 Regulations Applicable to all *Small Wireless Communications Facilities*. The following regulations shall apply to *Small Wireless Communications Facilities*:

A. Application Procedures.

- (1) *Small WCFs* shall be a permitted use in all Township zoning districts, subject to the requirements of this Section 280-167 and generally applicable permitting as required by the Township Code.

(2) Applications for *Small WCFs* shall be submitted to the Township Zoning Officer. The Township Zoning Officer shall provide all applications for *Small WCFs* to the Township Planning Commission and Citizens Communications Council for additional review.

(3) Applications for *Small WCFs* shall include the following:

(a) The name and contact information, including phone number, for both the *WCF Applicant* and the owner of the proposed *Small WCF*.

(b) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the *Small WCF*, and a certification that the *WCF Applicant* has included all information required by the Township Code, signed by a representative of the *WCF Applicant*.

(c) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the *Small WCF*.

[1] If the *Small WCF* is proposed for location on an existing or replacement *Wireless Support Structure* that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.

[2] If installation of a new or replacement *Wireless Support Structure* is being proposed, the depiction shall include the color, dimensions, material and type of *Wireless Support Structure* proposed.

(d) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the *Small WCF*.

(e) An aerial photograph of the proposed site showing the area within 500 feet of the *Small WCF*. The aerial photograph shall identify all structures within such radius.

(f) Photo simulations depicting the *Small WCF* from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the *Small WCF*.

(g) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed *Small WCF*

and *Wireless Support Structure* are structurally sound and shall not endanger public health and safety.

- (h) A report by a qualified engineering expert which shows that the *Small WCF* will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
 - (i) A certificate of insurance as required by Section 280-167J.
 - (j) Certification of the application's compliance with all requirements of this Section 280-167.
 - (k) All application fees required by the Township as detailed in the Township fee schedule.
- (4) Timing of Approval.
- (a) Within ten (10) business days of the date that an application for a *Small WCF* is filed with the Township Zoning Officer, the Township shall notify the *WCF Applicant* in writing of any information that may be required to complete such application. The applicant may then resubmit its application, at which point the applicable timeframe for approval shall restart. Any subsequent notice of incompleteness shall be issued within ten (10) business days of receipt of a resubmitted application and shall toll the applicable timeframe for approval until such time as the application is resubmitted.
 - (b) Within sixty (60) days of receipt of an application for *Collocation* of a *Small WCF* on a preexisting *Wireless Support Structure*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
 - (c) Within ninety (90) days of receipt of an application for a *Small WCF* requiring the installation of a new or replacement *Wireless Support Structure*, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the *WCF Applicant* in writing of such decision.
 - (d) If the Township denies an application for a *Small WCF*, the Township shall provide the *WCF Applicant* with written documentation of the basis for denial, including the specific provisions of the Township Code on which the denial was based, within five (5) business days of the denial.
 - (e) The *WCF Applicant* may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application

fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.

- (5) Consolidated applications. A single *WCF Applicant* may not submit more than one consolidated or 20 single applications for *Collocated Small WCFs* in a 30-day period. If the Township receives more than one consolidated application or 20 single applications within a 45-day period, the applicable timeframe under Section 280-167A(4) shall be extended by 15 days.

B. Location and development standards.

- (1) *Small WCFs* in the public ROW requiring the installation of a new *Wireless Support Structure* shall not be located in front of any building entrance or exit.
- (2) All *Small WCFs* shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.

C. Time, Place and Manner. Once approved, the Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all *Small WCFs* in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

D. Attachment to municipal structures. The Township shall allow the *Collocation* of *Small WCFs* to structures owned by the Township in accordance with the hierarchy detailed in this section. If the *WCF Applicant* is proposing the *Collocation* of a *Small WCF* on a lower priority structure, it shall be a condition to the approval of the application that the *WCF Applicant* provide evidence that *Collocation* on a higher priority structure or *Wireless Support Structure* owned by a third-party is not *Technically Feasible*. In order from most preferable to least preferable, the Township's *Collocation* preferences are as follows.

- (1) Power poles;
- (2) Traffic signage poles without traffic signals;
- (3) Traffic signal poles;
- (4) Decorative light poles.

E. Obstruction. *Small WCFs* and *Accessory Equipment* shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township.

- F. Graffiti. Any graffiti on a *Small WCF*, including the *Wireless Support Structure* and any *Accessory Equipment*, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Township.
- G. Design standards. All *Small WCFs* in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Township Department of Community Development.
- H. Obsolete equipment. As part of the construction, *Modification* or *Replacement* of a *Small WCF*, the *WCF Applicant* shall remove any obsolete or abandoned equipment from the *Wireless Support Structure*.
- I. Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a *Small WCF* in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any *WCF* when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (2) The operations of the Township or other governmental entity in the Right-of-Way;
 - (3) Vacation of a street or road or the release of a utility easement; or
 - (4) An emergency that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Township.
- J. Time limit for completion of construction. The proposed *Collocation*, the *Modification* or *Replacement* of a *Wireless Support Structure* or the installation of a new *Wireless Support Structure* with *Small WCF* attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the Township and the *WCF Applicant* agree in writing to extend the period.
- K. Reimbursement for ROW Use. In addition to permit fees as described in this section, every *Small WCF* in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each *Small WCF* shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

THE TOWNSHIP OF RADNOR



**SMALL WIRELESS COMMUNICATIONS FACILITY
DESIGN MANUAL**

SECTION I. DEFINITIONS

The following terms are defined as follows:

1. *Accessory Equipment* – Any equipment serving or being used in conjunction with a *Wireless Communications Facility* or *Wireless Support Structure*, including but not limited to transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
2. *Antenna* – An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.
3. *Collocation* – The mounting of one or more *Wireless Communications Facilities*, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a *Wireless Communications Facility* on that structure.
4. *Decorative Pole* – A Township-owned pole that is specially designed and placed for aesthetic purpose and on which no appurtenances or attachments, other than a *Small Wireless Communications Facility*, lighting, banners, or municipal attachments have been placed or are permitted to be placed.
5. *Front Façade Area* – The area of the public right-of-way directly in front of a structure, identified by drawing a perpendicular line from each corner of the front of the structure to the public right-of-way.
6. *Prior Approved Design* – A design for a small *Wireless Communications Facility* that has been reviewed and deemed to be in accordance with this Design Manual and approved for construction by the Township.
7. *Small Wireless Communications Facility* -- A *Wireless Communications Facility* that meets each of the following criteria:
 - (1) The *Wireless Communications Facility* —
 - (i) is mounted on a *Wireless Support Structure* that is 50 feet or less in height, or
 - (ii) is mounted on a *Wireless Support Structure* that is no more than 10 percent taller than other adjacent structures, or

(iii) does not extend an existing *Wireless Support Structure* to a height of more than 50 feet or by more than 10 percent above its preexisting height prior to the installation of any *Wireless Communications Facilities*, whichever is greater; and

(2) Each *Antenna* associated with the deployment of the *Wireless Communications Facility* (excluding the associated equipment) is no more than three cubic feet in volume; and

(3) All wireless equipment associated with the *Wireless Support Structure* including the wireless equipment associated with the *Antenna* and any pre-existing associated equipment on the *Wireless Support Structure*, are cumulatively no more than 28 cubic feet in volume.

(4) The *Wireless Communications Facility* does not require antenna structure registration under 47 CFR Part 17;

(5) The *Wireless Communications Facility* is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The *Wireless Communications Facility* does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

8. *Stealth Technology* — Camouflaging methods applied to *Wireless Communications Facilities* and accessory equipment 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 *Antennas*, building-mounted *Antennas* painted to match the existing structure and *Wireless Communications Facilities* constructed to resemble trees, shrubs, and light poles.
9. *Technically Feasible* – By virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a material reduction in the functionality of the *Small Wireless Communications Facility*.
10. *Underground District* – A zoning district in which all utility installations are required to be installed underground on a non-discriminatory basis.
11. *Wireless Communications Facility Applicant (WCF Applicant)* -- Any person that applies for a *Wireless Communications Facility* building permit, zoning approval and/or permission to use the public ROW or other Township-owned or third party land or property.

12. *Wireless Support Structure*—a pole, tower, base station, or other building, whether or not it has an existing *Antenna* facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

SECTION II. GENERAL STANDARDS FOR *SMALL WIRELESS COMMUNICATIONS FACILITIES*

1. All *Small WCFs* shall be installed in and maintained in a workmanlike manner in compliance with the National Electric Safety Code, the National Electrical Code, the structural standards of the American Association of State Highway and Transportation Officials, and any other industry standard applicable to the *WCF*, as applicable.
2. All *Small WCFs* shall comply with the Americans with Disabilities Act guidelines adopted by the Township and all applicable requirements relating to streets and sidewalks as established by Chapter 250 of the Township Code.
3. *Wireless Support Structures* installed or replaced in order to accommodate attached *Small WCFs* shall be a minimum of two (2) feet from any sidewalk, path or trail and shall not obstruct vehicular, pedestrian, or cyclist traffic or sight lines.
4. All *Small WCFs* shall comply with applicable federal and state standards regarding pedestrian access and movement.
5. All *Small WCFs* shall be designed and constructed in an effort to minimize aesthetic impact to the extent *Technically Feasible*. All applications for a *Small WCF* shall identify all design features intended to minimize aesthetic impact.
6. No *Small WCFs* shall extend beyond the boundaries of the rights-of-way unless approved on a case-by-case basis by the Township Zoning Officer. If a *Small WCF* or any portion thereof is to be located on private property, the *WCF Applicant* shall provide to the Township evidence that the owner of such private property has granted the *WCF Applicant* an easement or other right to construct the *Small WCF*.
7. All *Small WCFs* shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Communications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

8. If *Collocation* of a *Small WCF* on an existing *Wireless Support Structure* cannot be achieved, a *Small WCF* may be installed on a new or replacement *Wireless Support Structure*.
9. No more than one (1) *Small WCF* shall be permitted on a single *Wireless Support Structure*.
10. *Small WCFs* shall not interfere with seasonal installations, such as holiday lights or banners.

SECTION III. *ANTENNA AND ACCESSORY EQUIPMENT STANDARDS*

1. *Antenna Standards*

- a. Any *Antenna* associated with a *Small WCF* shall not exceed three (3) cubic feet in volume.
- b. The *Collocation* of a *Small WCF* on an existing *Wireless Support Structure* shall not extend more than five (5) feet above the existing *Wireless Support Structure*.
- c. All pole-top *Antennas* shall be flush-mounted as closely to the top of the *Wireless Support Structure* as *Technically Feasible*.
- d. All *Antennas* shall be of a design, style, and color that matches the *Wireless Support Structure* upon which they are attached.
- e. Any necessary pole-top extension shall be of the minimum height necessary to achieve separation from the existing pole attachments in accordance with the National Electric Safety Code and any other industry standard applicable to the *WCF*.
- f. Any *Antenna* mounted on a lateral standoff bracket shall protrude no more than necessary to meet clearances from the pole and existing pole attachments in accordance with the National Electric Safety Code and any other industry standard applicable to the *WCF*.
- g. If mounted on an existing *Wireless Support Structure*, no *Antenna* shall impair the function of said structure.
- h. *Antenna* placement shall not materially impair light, air, or views from adjacent windows.

2. *Accessory Equipment Standards*

- a. All *Accessory Equipment* associated with a *Wireless Support Structure* shall not exceed twenty-eight (28) cubic feet in volume. Equipment utilized solely for mitigation of the aesthetic impact of the *Small WCF* or required for utility service shall not be included in the *Accessory Equipment* volume calculation.
- b. *Accessory Equipment* shall be mounted flush to the side of a *Wireless Support Structure*, or as near flush to the side of a *Wireless Support Structure* as *Technically Feasible*.
- c. Pole-mounted *Accessory Equipment* shall be mounted so as to provide a minimum of fifteen (15) feet vertical clearance from ground level.
- d. All *Accessory Equipment* shall be placed underground in residential districts except on arterial roads and expressways, as defined by the Township Design Standards for Subdivision of Land, Article V, Section 255-27 Part B.
- e. *Accessory Equipment* shall be of a color that matches the *Wireless Support Structure* upon which such *Accessory Equipment* is mounted.
- f. All *Accessory Equipment* shall be contained within a single equipment shroud or cabinet. Such equipment shroud or cabinet shall be of the smallest dimensions *Technically Feasible*.
- g. All *Small WCFs* shall post a sign with a maximum size of 1.5 square feet in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted shall be that required by the FCC or any other federal or state agency. All signage associated with a *Small WCF* shall be clearly shown in the application and shall be subject to approval by the Township Zoning Officer.
- h. The placement of *Accessory Equipment* shall not materially impair light, air, or views from adjacent windows.
- i. No *Accessory Equipment* shall feature any visible lighting, including flashing indicator lights, unless required by state or federal law.

3. Wiring Standards

- a. Exposed wiring is prohibited on any *Small WCF*, *Accessory Equipment*, or *Accessory Equipment* enclosure.
- b. Transmission, fiber, power cables and any other wiring shall be contained within any *Wireless Support Structure* for which such concealment is *Technically Feasible*. If such wiring cannot be contained within the *Wireless Support Structure*, all wiring shall be contained within conduit or U-guard that is flush-mounted to the *Wireless Support Structure*.
- c. All wiring shall be installed tautly and without excessive slack or extra cable storage on the *Wireless Support Structure*.
- d. Any conduit or U-guard shall be of a color that matches the *Wireless Support Structure* to which the *Small WCF* is attached.
- e. Loops of extra wiring shall not be attached to any *Wireless Support Structure*.

SECTION IV. WIRELESS SUPPORT STRUCTURE STANDARDS

1. Replacement *Wireless Support Structures*

- a. The maximum height of any proposed replacement *Wireless Support Structure* shall be fifty (50) feet above ground level less.
- b. Any replacement *Wireless Support Structure* shall be of comparable materials and design to the existing *Wireless Support Structure* being replaced except as otherwise required by the pole owner.
- c. Any replacement *Wireless Support Structure* shall be placed within a five (5) foot radius of the existing *Wireless Support Structure* being replaced.
- d. Any replacement *Wireless Support Structure* shall be designed to accommodate all uses that existed on the *Wireless Support Structure* being replaced. As part of an application for a *Small WCF*, the applicant shall provide documentation from a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the replacement *Wireless Support Structure*, *Small WCF*, and prior existing uses shall be structurally sound.

2. New *Wireless Support Structures*

- a. The maximum height of any new *Wireless Support Structure* shall be fifty (50) feet above ground level.
- b. Any new *Wireless Support Structure* shall be of comparable materials and design to adjacent *Wireless Support Structures* except as required by the pole owner.
- c. Any *Small WCF* requiring the installation of a new *Wireless Support Structure* shall be set back from any residential structure by a minimum distance of at least 100% of the height of the proposed *Small WCF*.
- d. New *Wireless Support Structures* shall be designed to match the design of existing light poles within a five hundred (500) foot radius.
- e. To the extent *Technically Feasible*, no new *Wireless Support Structure* shall be installed:
 - i. In the Front Façade Area of any residential structure;
 - ii. Within ten (10) feet of the edge of any driveway; or
 - iii. In the public rights-of-way directly opposite any driveway.
- f. *Decorative Poles*:
 - i. No *Small WCF* shall be permitted on an existing *Decorative Pole* unless the *WCF Applicant* provides documentation showing that such *Decorative Pole* is the only *Technically Feasible* location for placement and that no suitable alternative sites exist.
 - ii. *Decorative Poles* shall be required:
 1. For the replacement of any existing *Decorative Pole*; and
 2. In any zoning district where all utilities are required to be placed underground on a non-discriminatory basis.
 - iii. For any replacement *Decorative Pole*, the new *Decorative Pole* shall match the existing *Decorative Pole* in shape, design, color, and material to the

extent *Technically Feasible*. The Township shall have final approval of any such replacement *Decorative Pole*.

- iv. No *Small WCF* shall be permitted on an existing *Decorative Pole* unless the applicant provides documentation showing that such *Decorative Pole* is the only *Technically Feasible* location for placement and that no suitable alternative sites exist. The *WCF Applicant* shall provide documentation from a structural engineer that said *Decorative Pole* can support the additional loads.

SECTION V. APPROVAL

1. The Township Zoning Officer shall reasonably determine whether a proposed *Small WCF* design complies with the requirements of this Design Manual. If the proposed *Small WCF* requires the installation of a new or replacement *Wireless Support Structure*, the Township Design Review Board shall make this determination at a scheduled public meeting.
2. Any requests for relief from the requirements of this Design Manual shall be considered on a case-by-case basis by the Township Zoning Officer and shall be approved upon a determination by the Township Zoning Officer that such relief is necessary to prevent the effective prohibition of wireless service pursuant to the rules of the Federal Communications Commission.
3. Upon approval of a design for a *Small WCF* requiring relief from the requirements of this Design Manual, such design shall be incorporated by reference into this Design Manual as a *Prior Approved Design*.
4. All requirements herein shall apply to any *Small WCF* constructed after the date on which the Township adopts this Design Manual. The requirements of this Design Manual shall not apply to any *Small WCF* constructed prior to the date of adoption, except that any modification, repair or replacement shall be performed in compliance with these requirements.

SECTION VI. PRIOR APPROVED DESIGNS

1. A record of *Prior Approved Designs* shall be kept on file at the Township Department of Community Development.

Small Wireless Communications Facility Design Checklist

The information detailed in the following checklist shall be included with any application for a *Small Wireless Communications Facility*:

Item	Description	Included in Application?	
		Yes	No
Cover Letter	<ul style="list-style-type: none"> • The application shall include a cover letter detailing the location of the proposed site, all equipment being proposed, and a certification that the applicant has included all information required by the Township Code. 		
Site Information	<ul style="list-style-type: none"> • Depiction of the proposed site shall show all proposed equipment associated with the <i>Small Wireless Communications Facility</i>. • The manufacturer and model, proposed location, and dimensions of each piece of equipment should be clearly shown. • Before and after diagrams of the proposed site showing the dimensional changes shall be included. • If the proposed <i>Wireless Support Structure</i> supports existing attachments, the depiction of the proposed site shall show the location and dimensions of all such attachments. • If installation of a new <i>Wireless Support Structure</i> is being proposed, the depiction of the proposed site shall include the color, dimensions, material and type of <i>Wireless Support Structure</i> proposed. • The depiction of the proposed site shall show the location of any existing structures within one hundred (100) feet of the proposed location, including but not limited to residential structures, commercial structures, light poles, traffic signals, traffic signage, and existing <i>Wireless Support Structures</i>. • An aerial photograph of the area within a 500' radius of the <i>Small WCF</i> and identify all <i>WCFs</i> in that area. 		

<p>Photo Simulations</p>	<ul style="list-style-type: none"> • Photo simulations shall depict the <i>Small Wireless Communications Facility</i> from at least three locations near the proposed site at 90 degrees from the other. • The photo simulations should reflect the proposed design and location of all <i>Accessory Equipment</i> associated with the <i>Small Wireless Communications Facility</i> to scale. 		
<p>Paint</p>	<ul style="list-style-type: none"> • <i>Accessory Equipment</i> shall be painted a color that matches the <i>Wireless Support Structure</i> upon which such <i>Accessory Equipment</i> is mounted. • Application shall include the proposed paint color of any <i>Accessory Equipment</i> necessary to achieve aesthetic uniformity of the site. 		
<p>Wiring</p>	<ul style="list-style-type: none"> • All proposed wires associated with the <i>Small Wireless Communications Facility</i> shall be clearly shown. • A depiction and description of the concealment methods to be utilized for the wiring shall be included. • No exposed wiring is permitted. 		
<p>Signage</p>	<ul style="list-style-type: none"> • Signage shall be posted in a readily visible location and identify the owner's permit number and the name and phone number of a party to contact in the event of an emergency. • If required, FCC-mandated signage is permitted. The <i>WCF Applicant</i> shall identify such signage in its application. 		

Radnor Township

PROPOSED LEGISLATION

INTRODUCTION



FROM: Kevin W. Kochanski, Community Development Director
SUBJECT: PLO – Hotel Roof-Top and Outdoor Dining Ordinance Amendment
DATE: October 19, 2021

LEGISLATION:

The proposed Ordinance would amend Chapter 280 of the Radnor Code, Zoning Ordinance, by establishing regulations to permit hotel rooftop dining and outdoor dining as part of a hotel use within the PLO – Planned Laboratory Office District.

LEGISLATIVE HISTORY:

This ordinance was authorized to be forwarded to the Township and County Planning Commissions for review and comments.

Delaware County Planning Commission – County staff was supportive, with comments, of the proposed amendment per their memo dated September 17, 2021. Their recommendation is attached.

Radnor Township Planning Commission – The Township Planning Commission recommended approval at their October 4, 2021 meeting. Their recommendation is attached.

FISCAL IMPACT:

This ordinance is not expected to have any negative impact on the Budget.

RECOMMENDED ACTION:

I would respectfully recommend that this Ordinance remain as drafted. I recognize and appreciate the concerns raised by the Township and County Planning Commissions. However, the suggested revisions address items that are either already regulated by existing Township Ordinances or, given the limited footprint that rooftop dining would have, could be too restrictive to appropriately allow rooftop dining. I request that the original authorized ordinance (as accepted on 8/16/2021) be Introduced on October 25, 2021, and a hearing date of November 22, 2021 be set for possible adoption.

Thank you for your consideration.

ORDINANCE NO. 2021-08

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A HOTEL AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, [hotel rooftop dining](#), or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

C. Except for outdoor dining [and hotel rooftop dining](#), no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

- B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.
- C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

- A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
- (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - (2) Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
 - (3) No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
 - (4) The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.
 - (5) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.
 - (6) Handicap access to the rooftop shall be from the interior space of the hotel building.
 - (7) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by

the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.

- (8) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.
 - (9) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
 - (10) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.
- B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all portable equipment shall be stored within the hotel building.
- C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:
- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.
- D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

B. Outdoor dining shall be permitted within the PLO District as part of:

- (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
- (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____



DELAWARE COUNTY PLANNING COMMISSION

1055 E. Baltimore Pike – Suite 100
Media, PA 19063

Phone: (610) 891-5200

Email: planning_department@co.delaware.pa.us

COUNCIL

BRIAN P. ZIDEK
CHAIRMAN

DR. MONICA TAYLOR
VICE CHAIR

KEVIN M. MADDEN
ELAINE PAUL SCHAEFER
CHRISTINE A. REUTHER

September 17, 2021

LINDA F. HILL
DIRECTOR

Mr. William White
Radnor Township
301 Iven Avenue
Wayne, PA 19087-5297

RE: Name of Petition: Rooftop Dining
DCPD File No.: 34-7698-21
Petitioner: Radnor Township
Recv'd in DCPD: August 17, 2021

Dear Mr. White:

In accordance with the provisions of Section 609 of the Pennsylvania Municipalities Planning Code, the above described proposal has been sent to the Delaware County Planning Commission for review. At a meeting held on September 16, 2021, the Commission took action as shown in the recommendation of the attached review.

Please refer to the DCPD file number shown above in any future communications related to this application.

Very truly yours,

Thomas P. Shaffer
Interim Director



1055 E. Baltimore Pike
Media, PA 19063
Phone: (610) 891-5200
Email: planning_department@co.delaware.pa.us

Date: September 16, 2021
File No.: 34-7698-21

PETITION: Rooftop Dining
DATE OF PETITION: August 17, 2021
PETITIONER: Radnor Township
MUNICIPALITY: Radnor Township
TYPE OF REVIEW: Zoning text
PROPOSAL: Amend the text of the Township zoning ordinance to address rooftop dining
RECOMMENDATIONS: Adoption, with consideration given to staff comments
PREPARED BY: Michael A. Leventry

REMARKS:

ZONING TEXT AMENDMENT

The proposal requests to change the zoning code to allow for the rooftop dining as an accessory use to a hotel use containing a restaurant with indoor dining within the C-2, C-3, PB, and PLO districts. A permit for the use will be required.

Rooftop code section: The new section of zoning code will regulate rooftop dining and include provisions addressing operation, impacts, building code, accessibility, and buffering. Dining is to be allowed from 8 a.m. to midnight. No dining could exist within 100' of a residential district. All lighting will comply with existing lighting requirements. Amplified music is only allowed with decibel limiters. Finally, for hotels that are existing non-conforming, the rooftop dining use will be considered under the code's Special Exception requirements.



Date: September 16, 2021
File No.: 34-7698-21

REMARKS (continued):

STAFF RECOMMENDATIONS

Staff recommends that the ordinance address and prohibit open fires such as fire pits. Similarly, gas flamed devices that mimic a firepit but could be characterized as a heater should be addressed.

Parking requirements should be considered in the event that the amount of rooftop dining drastically increases potential capacity or if the hotel is already known to be overburdened from a parking standpoint.

TEXT AMENDMENT FINDINGS

Staff commends the Township for reviewing its code and allowing resourceful hotel owners additional options for adapting their businesses and recommends adoption of this provision.

ADOPTION

In accordance with Section 609(g) of the PA Municipalities Planning Code, an executed copy of the amendment must be forwarded to the County Planning Department within thirty (30) days of enactment.

RADNOR TOWNSHIP

ENGINEERING DEPARTMENT



Memorandum

To: William M. White, Township Manager

From: Stephen F. Norcini, PE, Township Engineer *Stephen F. Norcini*

CC: Kevin Kochanski, Director of Community Development
Mary Eberle, Esquire, Grim, Biehn & Thatcher
John Rice, Esquire, Grim, Biehn & Thatcher

Date: October 19, 2021

***ORDINANCE NO. 2021-08 -AN ORDINANCE OF RADNOR TOWNSHIP,
DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP
ZONING ORDINANCE TO ALLOW HOTEL ROOFTOP DINING AND
OUTDOOR DINING ASSOCIATED WITH A HOTEL AND TO PROVIDE
REGULATIONS THEREFORE***

The above referenced Zoning Ordinance Amendment was before the Planning Commission [PC] on September 14, 2021. The PC directed the Solicitor, Mary Eberle, to edit the proposed ordinance so it better mirrored the Township's existing Rooftop Dining Ordinance.

The revised Ordinance was presented to the PC at the October 4, 2021, meeting. At the 10/4/21PC meeting, the following motion was put forth:

To recommend approval of the rooftop dining ordinance as modified by the Memo from Grim Biehn & Thatcher of September 28, 2021 to now add in paragraphs one, two, five, and eight from that memo, with the possible correction that item number one will be amended to note that the rooftop dining area must be operated by the operator of a restaurant inside the hotel as opposed to the operator of the principal use.

The motion was approved unanimously, 5-0.

Attached to this memorandum is the latest draft [directly following this page] and the PC packet documents.

ORDINANCE NO. 2021-08

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A HOTEL AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, [hotel rooftop dining](#), or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

C. Except for outdoor dining [and hotel rooftop dining](#), no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B. Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B. Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

- A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
- (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - ~~(2)~~ The hotel rooftop dining area must be operated by the operator of a restaurant located inside the hotel on which the rooftop dining is located.
 - ~~(3)~~ In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development ordinance for street classifications). In the event both adjacent streets have the same classification, the rear of the rooftop shall be that area farthest from the adjacent street with the highest average daily traffic.
 - ~~(2)~~~~(4)~~ Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
 - ~~(3)~~~~(5)~~ No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
 - ~~(4)~~~~(6)~~ The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.

~~(5)~~(7) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.

~~(6)~~(8) Handicap access to the rooftop shall be from the interior space of the hotel building.

All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.

(9) Outdoor heaters shall meet the following requirements:

(a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.

(b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.

(c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.

(10) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.

(11) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.

~~(7)~~(12) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.

~~(8)~~(13) Outdoor heaters shall meet the following requirements:

(a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.

(b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.

(c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.

~~(9)~~(14) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.

~~(10)~~(15) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280- 101.A.2.

B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all

portable equipment shall be stored within the hotel building.

- C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:
- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.
- D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.
- E.F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

- B. Outdoor dining shall be permitted within the PLO District as part of:
- (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
 - (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than

that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and **ORDAINED** this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____

ORDINANCE NO. 2021-08

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A HOTEL AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

- A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, hotel rooftop dining, or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

- C. Except for outdoor dining and hotel rooftop dining, no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed, or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B. Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B. Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

- A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
- (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - (2) The hotel rooftop dining area must be operated by the operator of a restaurant located inside the hotel on which the rooftop dining is located.
 - (3) In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development ordinance for street classifications). In the event both adjacent streets have the same classification, the rear of the rooftop shall be that area farthest from the adjacent street with the highest average daily traffic.
 - (4) Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
 - (5) No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
 - (6) The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.

- (7) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.
 - (8) Handicap access to the rooftop shall be from the interior space of the hotel building.
 - (9) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.
 - (10) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.
 - (11) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
 - (12) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.
- B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all portable equipment shall be stored within the hotel building.
- C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:
- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.
- D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set

to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.

- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.
- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

- B. Outdoor dining shall be permitted within the PLO District as part of:
 - (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
 - (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and **ORDAINED** this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____



JACK LARKIN
President
MOIRA MULRONEY, ESQ
Vice President
JAKE ABEL
CATHERINE H. AGNEW
RICHARD F. BOOKER, ESQ.
LISA BOROWSKI
SEAN FARHY

RADNOR TOWNSHIP
301 IVEN AVENUE
WAYNE, PENNSYLVANIA 19087-5297

Phone (610) 688-5600
Fax (610) 971-0450
www.radnor.com

WILLIAM M. WHITE
Township Manager
Township Secretary

JOHN B. RICE, ESQ.
Solicitor

KATHRYN GARTLAND
Treasurer

August 16, 2021

Thomas P. Shaffer, Interim Director
Delaware County Planning Department
1055 E. Baltimore Pike
Elwyn, PA 19063

SUBJECT: PROPOSED ZONING AMENDMENT – RADNOR TOWNSHIP

Dear Mr. Shaffer,

Enclosed please find a copy of a proposed Zoning Ordinance amendment for Radnor Township. Please review in accordance with the applicable requirements of the Municipalities Planning Code. The proposed regulations amending our ordinance to permit hotel rooftop dining and modify outdoor dining.

This amendment is being provided to you in accordance with MPC Section 609(e); which requires that a copy be provided to the County Planning Agency for recommendations at least 30 days prior to the public hearing.

Sincerely,

Kevin W. Kochanski, RLA, CZO
Director of Community Development

CC: William White, Township Manager
John Rice, Township Solicitor
Steve Norcini, Township Engineer

ORDINANCE NO. 2021-08

**AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW
HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A
HOTEL AND TO PROVIDE REGULATIONS THEREFORE**

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, [hotel rooftop dining](#), or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

C. Except for outdoor dining [and hotel rooftop dining](#), no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

- B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.
- C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

- A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
 - (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - (2) Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
 - (3) No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
 - (4) The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.
 - (5) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.
 - (6) Handicap access to the rooftop shall be from the interior space of the hotel building.
 - (7) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by

the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.

- (8) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.
 - (9) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
 - (10) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.
- B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all portable equipment shall be stored within the hotel building.
- C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:
- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.
- D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

- B. Outdoor dining shall be permitted within the PLO District as part of:
- (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
 - (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____

ORDINANCE NO. 2021-08

**AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW
HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A
HOTEL AND TO PROVIDE REGULATIONS THEREFORE**

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

- A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, [hotel rooftop dining](#), or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

- C. Except for outdoor dining [and hotel rooftop dining](#), no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

- B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.
- C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

- A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
 - (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - (2) Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
 - (3) No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
 - (4) The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.
 - (5) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.
 - (6) Handicap access to the rooftop shall be from the interior space of the hotel building.
 - (7) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by

the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.

- (8) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.
- (9) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- (10) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.

B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all portable equipment shall be stored within the hotel building.

C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:

- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
- (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
- (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.

D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.

E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

- B. Outdoor dining shall be permitted within the PLO District as part of:
- (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
 - (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____

ORDINANCE NO. 2019 -11

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW ROOFTOP DINING IN THE WAYNE BUSINESS OVERLAY DISTRICT (“WBOD”) AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1. Rooftop Dining Regulations.

Article XIII A Wayne Business Overlay District

§280-53.6. Definitions is hereby amended to include the following definition:

ROOFTOP DINING

The use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.

§280-53.7.F Use regulations is hereby amended to add Rooftop Dining as an accessory use in the WBOD Zoning District:

- F. (2) Rooftop Dining when accessory to a restaurant use with indoor seating, subject to the provisions of §280-53.16.

§280-53.9.B **Special regulations for the WBOD** is hereby amended to read as follows:

- B. Except for outdoor dining as permitted by §280-115.3 and Rooftop Dining as permitted by §280-53.16, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles, or equipment shall be stored, displayed, or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

§280-53.16. (Previously Reserved) is hereby entitled **Rooftop Dining Regulations** and shall read as follows:

- A. Rooftop Dining shall be permitted as an accessory use in the WBOD Zoning District when located on the same premises as a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:

- (1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.
- (2) Rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
- (3) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.
- (4) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.
- (5) Rooftop dining shall not be permitted in any building which contains a residential use.
- (6) Rooftop dining shall be permitted only between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
- (7) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section (§280-53.16), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
- (8) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of an unimproved lot located completely or partially within a Residential Zoning District.
- (9) The rooftop dining area shall not extend beyond the width and depth of the building upon which the principal restaurant is located.
- (10) In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development Ordinance). In the event both adjacent streets have the same street classification, the rear of the rooftop shall be that area farthest from the adjacent street with highest average daily traffic.

- (11) The number of rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes, nor shall the number of rooftop seats exceed the number of seats in the principal restaurant use.
- (12) The rooftop area must be surrounded by railing or walls no less than 42 inches in height. The bar shall be located toward the center of the roof.
- (13) Handicap access to the rooftop shall be from the interior space of the business within the principal building.
- (14) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the rooftop must be turned off when the rooftop area is not in use.
- (15) Food preparation on the rooftop shall not include an open flame.
- (16) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.
 - (d) No propane fired heaters shall be used on the roof.
- (17) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.
- (18) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- (19) Parking. One (1) parking space shall be provided per three (3) seats in the rooftop dining area. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the rooftop dining is in use. The applicant shall demonstrate, by means of an easement or long-term contract, that the parking spaces to be utilized by the rooftop dining establishment will be available for exclusive use of the rooftop dining facility.

- B. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment or shall be stored off site.
- C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:
- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and the fire marshal.
- D. Noise. Rooftop dining shall be subject to the noise regulations of Chapter 200. No live music shall be permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.
- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 2. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 3. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 4. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this 21 day of October, 2019.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: 
Name: Lisa Borowski
Title: President

ATTEST: 
Robert A. Zienkowski, Secretary



JACK LARKIN
President
MOIRA MULRONEY, ESQ
Vice President
JAKE ABEL
CATHERINE H. AGNEW
RICHARD F. BOOKER, ESQ.
LISA BOROWSKI
SEAN FARHY

RADNOR TOWNSHIP
301 IVEN AVENUE
WAYNE, PENNSYLVANIA 19087-5297

Phone (610) 688-5600
Fax (610) 971-0450
www.radnor.com

WILLIAM M. WHITE
Township Manager
Township Secretary

JOHN B. RICE, ESQ.
Solicitor

KATHRYN GARTLAND
Treasurer

August 16, 2021

Thomas P. Shaffer, Interim Director
Delaware County Planning Department
1055 E. Baltimore Pike
Elwyn, PA 19063

SUBJECT: PROPOSED ZONING AMENDMENT – RADNOR TOWNSHIP

Dear Mr. Shaffer,

Enclosed please find a copy of a proposed Zoning Ordinance amendment for Radnor Township. Please review in accordance with the applicable requirements of the Municipalities Planning Code. The proposed regulations amending our ordinance to permit hotel rooftop dining and modify outdoor dining.

This amendment is being provided to you in accordance with MPC Section 609(e); which requires that a copy be provided to the County Planning Agency for recommendations at least 30 days prior to the public hearing.

Sincerely,

Kevin W. Kochanski, RLA, CZO
Director of Community Development

CC: William White, Township Manager
John Rice, Township Solicitor
Steve Norcini, Township Engineer

ORDINANCE NO. 2021-08

**AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW
HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A
HOTEL AND TO PROVIDE REGULATIONS THEREFORE**

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, [hotel rooftop dining](#), or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

C. Except for outdoor dining [and hotel rooftop dining](#), no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:

- (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
- (2) Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
- (3) No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
- (4) The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.
- (5) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.
- (6) Handicap access to the rooftop shall be from the interior space of the hotel building.
- (7) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by

the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.

- (8) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.
 - (9) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
 - (10) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.
- B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all portable equipment shall be stored within the hotel building.
- C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:
- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.
- D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

- B. Outdoor dining shall be permitted within the PLO District as part of:
- (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
 - (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____

ORDINANCE NO. 2021-08

**AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW
HOTEL ROOFTOP DINING AND OUTDOOR DINING ASSOCIATED WITH A
HOTEL AND TO PROVIDE REGULATIONS THEREFORE**

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article I, Section 280-4.B Definitions is hereby amended to add the following definition:

HOTEL ROOFTOP DINING

The use of a rooftop area of a hotel by a licensed food establishment (restaurant) contained within the hotel for the consumption of food or beverages.

Section 2.

Chapter 280, Zoning is hereby amended to permit hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating in the C-2 (General Commercial District), C-3 (Service Commercial District), and PB (Planned Business District) through the following new Subsections:

280-51.N Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-55.K Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-59.C(5) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

280-63.D(7) Hotel rooftop dining as an accessory use to a hotel use containing a restaurant space with indoor seating, subject to the provisions of § 280-115.4.1.

Section 3.

Article XII, Section 280-53.A is hereby amended to read as follows:

- A. The requirement that a use be enclosed within a building shall not apply to outdoor dining, [hotel rooftop dining](#), or a used car lot in conjunction with an automobile sales agency.

Section 4.

Article XIV, Section 280-61.C is hereby amended to read as follows:

- C. Except for outdoor dining [and hotel rooftop dining](#), no permanent storage of merchandise, articles or equipment shall be permitted outside a building, and no goods, articles or equipment shall be stored, displayed or offered for sale beyond the front lines of a building.

Section 5.

Article XV Sections 280-63.B and 280-63.C Use Regulations are hereby amended to add outdoor dining as a permitted component of a hotel use in the PLO Zoning District:

- B. (1) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.
- C. (2) Hotel, including extended stay, which may contain restaurant and banquet space. [The restaurant and/or banquet space may include outdoor dining as permitted by § 280-115.4.B.](#) Hotel pools and indoor health/fitness/recreation centers shall be for the use of hotel guests only.

Section 6.

Article XX General Regulations is hereby amended by adding a new section 115.4.1 as follows:

Section 280-115.4.1 Hotel Rooftop Dining Regulations

- A. Hotel Rooftop Dining shall be permitted as an accessory use to a permitted principle Hotel Use when located on the same premises and within the same building as a hotel containing a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
 - (1) Hotel rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - (2) Hotel rooftop dining shall be permitted from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
 - (3) No hotel rooftop dining area shall be established within One Hundred Feet (100') of the property line of a residential zoning district. For purposes of this section (§ 280-115.4.1), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
 - (4) The hotel rooftop dining area shall not extend beyond the width and depth of the building upon which the principal hotel is located.
 - (5) The number of hotel rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes.
 - (6) Handicap access to the rooftop shall be from the interior space of the hotel building.
 - (7) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the hotel rooftop dining area other than lighting required for security purposes or by

the Township Code of Ordinances must be turned off when the hotel rooftop dining area is not in use.

- (8) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the hotel rooftop dining area to prevent the heater from tipping over.
- (9) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- (10) Hotel Rooftop dining proposed as part of an existing legal non-conforming Hotel shall be subject to the Special Exception requirements of Section 280-101.A.2.

B. Storage of Materials. At the conclusion of any hotel rooftop dining season, all portable equipment shall be stored within the hotel building.

C. Hotel rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all hotel rooftop dining permits or proposed changes in hotel rooftop dining permits:

- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
- (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
- (3) The applicant shall seek and comply with safety recommendations from the police department and fire marshal.

D. Noise. Hotel rooftop dining shall be subject to the noise regulations of Chapter 200. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the hotel rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.

E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 7.

Article XX, Section 280-115.4.B is hereby amended to read as follows:

- B. Outdoor dining shall be permitted within the PLO District as part of:
- (1) An accessory cafeteria, provided that the outdoor dining area is used exclusively by the occupants of the building or campus; and shall be subject to the provisions of § 280-115.4.A.
 - (2) A hotel with restaurant and/or banquet space; subject to the provisions of 280-115.4.A(1) through (6) and (10) through (15).

Section 8. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 9. Severability. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 10. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
President

ATTEST: _____

ORDINANCE NO. 2019 -11

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW ROOFTOP DINING IN THE WAYNE BUSINESS OVERLAY DISTRICT ("WBOD") AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1. Rooftop Dining Regulations.

Article XHIA Wayne Business Overlay District

§280-53.6. Definitions is hereby amended to include the following definition:

ROOFTOP DINING

The use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.

§280-53.7.F Use regulations is hereby amended to add Rooftop Dining as an accessory use in the WBOD Zoning District:

- F. (2) Rooftop Dining when accessory to a restaurant use with indoor seating, subject to the provisions of §280-53.16.

§280-53.9.B **Special regulations for the WBOD** is hereby amended to read as follows:

- B. Except for outdoor dining as permitted by §280-115.3 and Rooftop Dining as permitted by §280-53.16, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles, or equipment shall be stored, displayed, or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

§280-53.16. (Previously Reserved) is hereby entitled **Rooftop Dining Regulations** and shall read as follows:

- A. Rooftop Dining shall be permitted as an accessory use in the WBOD Zoning District when located on the same premises as a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:

- (1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.
- (2) Rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
- (3) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.
- (4) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.
- (5) Rooftop dining shall not be permitted in any building which contains a residential use.
- (6) Rooftop dining shall be permitted only between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
- (7) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section (§280-53.16), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.
- (8) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of an unimproved lot located completely or partially within a Residential Zoning District.
- (9) The rooftop dining area shall not extend beyond the width and depth of the building upon which the principal restaurant is located.
- (10) In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development Ordinance). In the event both adjacent streets have the same street classification, the rear of the rooftop shall be that area farthest from the adjacent street with highest average daily traffic.

- (11) The number of rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes, nor shall the number of rooftop seats exceed the number of seats in the principal restaurant use.
- (12) The rooftop area must be surrounded by railing or walls no less than 42 inches in height. The bar shall be located toward the center of the roof.
- (13) Handicap access to the rooftop shall be from the interior space of the business within the principal building.
- (14) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the rooftop must be turned off when the rooftop area is not in use.
- (15) Food preparation on the rooftop shall not include an open flame.
- (16) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.
 - (d) No propane fired heaters shall be used on the roof.
- (17) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.
- (18) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- (19) Parking. One (1) parking space shall be provided per three (3) seats in the rooftop dining area. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the rooftop dining is in use. The applicant shall demonstrate, by means of an easement or long-term contract, that the parking spaces to be utilized by the rooftop dining establishment will be available for exclusive use of the rooftop dining facility.

- B. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment or shall be stored off site.
- C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:
 - (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and the fire marshal.
- D. Noise. Rooftop dining shall be subject to the noise regulations of Chapter 200. No live music shall be permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.
- E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.
- F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.


Section 2. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 3. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 4. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this 21 day of October, 2019.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: 
Name: Lisa Borowski
Title: President

ATTEST:


Robert A. Zienkowski, Secretary

ORDINANCE NO. 2021-14

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF RADNOR, CHAPTER 270, SECTION 270-31 SPECIAL PURPOSE PARKING ZONES AND AMENDING THE CODE OF THE TOWNSHIP OF RADNOR, CHAPTER 270, SECTION 270-28 PARKING PROHIBITED AT ALL TIMES

The Board of Commissioners of the Township of Radnor does hereby ENACT and ORDAIN the following amendments to Section 270-31 as follows:

Section 1. Section 270-31, Special Purpose Parking Zones, is hereby amended deleting the following handicapped parking zone:

Name of Street	Side	Location
Eachus Avenue	West	Commencing 40 feet from Meredith Avenue in a north direction on the west side of Eachus Avenue continuing for a distance of 22 feet.

Section 2. Section 270-28. Parking prohibited at all times. No person shall park a vehicle at any time upon any of the streets or parts thereof described below.

Name of Street	Side	Location
Wentworth Lane	West	From Summit Terrace to Dreer Lane

Section 3. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 4. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 5. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and *ORDAINED* this 25th day of October, 2021.

RADNOR TOWNSHIP

By: _____
Name: Jack Larkin
Title: President

ATTEST: _____
William White, Secretary

RESOLUTION 2021-126

A RESOLUTION OF THE BOARD OF COMMISSIONER OF RADNOR TOWNSHIP, DELAWARE COUNTY, FURTHER EXTENDING GUIDELINES AND POLICIES FOR OUTDOOR SALES OF FOOD AND MERCHANDISE OF EXISTING BUSINESSES IN THE TOWNSHIP DURING THE CORONA VIRUS PANDEMIC ESTABLISHED UNDER RESOLUTIONS 2020-61

WHEREAS, the Board of Commissioners adopted Resolution 2020-61 on June 8, 2020 that established guidelines and a policy for outdoor sale of merchandise and outdoor dining for existing business in the Township for a period of time ending October 31, 2020; and

WHEREAS, the Board of Commissioners adopted Resolution 2020-123 on October 26, 2020 extending the guidelines and policy established under Resolution 2020-61; and

WHEREAS, the Board of Commissioners adopted Resolution 2021-35 on March 22, 2021 further extending the guidelines and policy established under Resolution 2020-61 through November 30, 2021; and

WHEREAS, Radnor restaurants and retailers are still feeling the negative effects of the COVID-19 Pandemic and the Radnor Township Board of Commissioners wishes to continue providing available tools that allow these businesses to expand sales.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners wishes to further extend the guidelines and policies set forth under Resolution 2020-61 through May 31, 2022, or such earlier date as the Board may specify by subsequent resolution to allow for continued relaxed outdoor dining and merchandise sales.

RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 25 day of October, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Jack Larkin
Board President

Attest

By: _____
William White
Township Manager / Secretary

Update on
2022
Comprehensive
Budget
Assumptions and
Recommendations

Removed from Agenda 10/25/2021

From: Commissioner Richard F. Booker, Esq., B.S., J.D., LL.M (Taxation)
Date: October 20, 2021

Added to packet 10/21/2021

Based on public disclosures from a recent Inquirer article (attached), it has become clear, that the Township’s License Agreement with Fern Valley Farm ("Fern Valley") enables various land owners at the Ardrossan development, to avail themselves of the lower, agricultural land assessment values, thereby realizing lower property tax valuation assessments, and lower property tax payments than would otherwise be applicable. These special agricultural property tax abatements are available under Pennsylvania Act 319 and Act 515.

Resolution #2015-51 specifically states that “the Township desires to keep the land in active farming operation and maintenance.”

The Township’s license agreement facilitates the lower property tax assessments, because it maintains the “active farming operations” required for Ardrossan development property owners to qualify for the special, lower “agricultural” exemptions afforded by Act 319 and Act 515. The continuation of the “active farming operations” by the Township, on the Township’s contiguous parcels, allows certain Ardrossan development parcels to qualify for the special property tax abatements.

While the Board of Commissioners can not and does not oppose any individual availing themselves of the tax benefits afforded by Act 319 and Act 515, those benefits must be obtained through those individual property owners maintaining “active farming operations” on their specific parcels – not through Radnor Township’s farming operation on its contiguous parcels. Consequently, in order to rectify the situation, the Township must terminate its license agreement with Fern Valley, and allow the individual property owners at the Ardrossan development to farm their own properties, if they wish to avail themselves of the special property tax reductions afforded by Acts 319 and 515.

[Insert Inquirer article]

<https://www.inquirer.com/business/ardrossan-homeowners-qualify-local-reductions-too-courtesy-programs-save-farms-20210716.html>

[Insert Resolution 2015-51 and License Agreement – file attached]

Richard F. Booker, Esq.
Commissioner, Radnor Township
301 Iven Ave.
Radnor, PA 19087
(610) 742-9780



NEWS

SPORTS

BUSINESS

OPINION

POLITICS

ENTERTAINMENT

LIFE

FOOD

HEALTH

Business



Ardrossan homeowners qualify for local reductions, too — courtesy of programs to save farms

Dozens of properties at the former Ardrossan estate are covered under state abatement schemes, including the Act 319 “Clean and Green” program, that give landowners local tax breaks for farmland.



ADVERTISEMENT

Helen Hope Montgomery Scott leans down to give a kiss to one of her beloved dairy cows. Before her death in 1995, Scott oversaw a herd of up to 340 cows at Ardrossan. No ... [Read more](#)
JOAN FAIRMAN KANES

by Jacob Adelman
Published Jul 16, 2021

Thanks in part to 60 cows that they don't have to wrangle, many of the wealthy homeowners who dot the sprawling acreage of the former Ardrossan estate have found a way to qualify for local tax breaks [along](#)



NEWS

SPORTS

BUSINESS

OPINION

POLITICS

ENTERTAINMENT

LIFE

FOOD

HEALTH

Raunor Township, and Raunor schools by registering their land as farms.

The tax breaks under state law are open only to parcels at the former estate larger than 10 acres. For lots under that size, the nonprofit that owns the land is arguing in Delaware County Court that it shouldn't be taxed at all because restrictions on development have stripped it of all value.

Delaware County solicitor William F. Martin is fighting back, at least about those smaller lots.

ADVERTISEMENT

Such property owners "are enjoying open spaces, and buffers between them and the world in perpetuity," he said. "I believe there's value there."

» ***Read the investigation: [How the ultrarich carved up a famous Main Line estate — and qualified for big tax breaks](#)***

Still, at least two dozen parcels — accounting for more than 40% of the former estate's acreage sold by Eddie Scott's businesses — are successfully enrolled in state agricultural-protection programs that qualify owners for tax cuts, according to an Inquirer analysis of Delaware County records obtained under the state's Right to Know Law.

Those owners have seen their realty taxes reduced by an estimated total of \$490,000 this year, a 30% reduction from the \$1.6 million they would have owed without the discount, the analysis shows.



NEWS

SPORTS

BUSINESS

OPINION

POLITICS

ENTERTAINMENT

LIFE

FOOD

HEALTH

That has put a heavier burden on other property tax payers in Delaware County, where many towns have more in common with the middle-class neighborhoods in HBO's *Mare of Easttown*, set in the county, than with the world of *The Philadelphia Story*.

"It begs the question of, 'Is it appropriate for other taxpayers and school districts and municipalities to essentially pay higher taxes to subsidize people buying these properties?'" said Timothy W. Kelsey, a Pennsylvania State University agricultural economics professor who has studied the state farm-preservation programs.

Act 319, better known as "Clean and Green," and Act 515 are statewide agricultural-conservation programs enacted in the 1960s and 1970s.

Critics such as Kelsey have questioned the fairness and efficacy of the programs. A [2018 series](#) by the Morning Call newspaper in Allentown found that the programs' lax oversight and flexible rules were resulting in billions in losses to counties and townships, as millionaire homeowners and businesses with tenuous connections to agriculture reaped big breaks.

The programs tax land for what it is worth as a working farm and not what its value would be if sold on the open market for housing, strip malls, or offices. Under Act 319, by far the most commonly used of the programs at Ardrossan and elsewhere, the land has to have been previously used for agriculture. It must only produce \$2,000 a year in farm goods — a figure that even some advocates acknowledge is low.

The enrolled properties at Ardrossan are assessed at about \$140,000 an acre. That valuation puts them at the bottom 5% of property

assessments on a per-acre basis across Delaware County, according to an analysis of county records.



That doesn't require that the applicant homeowner actually be a farmer. Which brings us to the 60 Black Angus cows of Ardrossan.

They are raised on various Ardrossan properties by Richard Billheim and his wife, Kate Wolff, who live in a farmhouse on the property. Wolff said she knew of no other farming on the tract.

"We do our farming on people's homes basically," Wolff said.

Billheim has been raising cows on estate land his entire life, beginning alongside his father, who had tended the far larger dairy herd of Helen Hope Montgomery Scott. After those Ayrshire dairy cows were sold following Scott's death in 1995, Billheim worked out a deal with the Scott family to raise his own herd of beef cattle on the property, then continued doing so as the land was sold off, Wolff said.

Their operation, Fern Valley Farm, also grows 50 acres of corn, wheat, and soybeans in spots on the former estate, while harvesting some 250 acres of the tract's greenery for hay, Wolff said. Their cows continue to graze on the remaining 70 acres of pastureland there, Wolff said.

On a recent afternoon, a few small clusters of cows could be seen on occasion on hillsides, keeping their distance from the tract's palatial homes.

Property owners "like it, and it helps us continue our farming operation," Wolff said. "Everybody gets to benefit from this."



But now, litigation is being pursued in a bid to avoid taxes on some of those properties entirely.

The 13 parcels in question are owned by North American Land Trust, the conservation group that enabled Eddie Scott to offer federal tax breaks to his buyers.

It bought some of the Ardrossan lots from Scott in part by using cash given to it by Ardrossan owners, NALT president Steven Carter said. Donors of cash or land could have sought tax deductions for those gifts. It received others as donations.

The land trust then signed a pledge to forever ban development on those parcels.

While the appeal was filed in NALT's name, Carter said it had no preference in the outcome of the case. Still, he said, the organization supports the effort "in the interest of partnership."

It granted responsibility for enforcing that ban — and for paying any taxes levied on the properties — to Ardrossan's property owners association, which is managed by Scott.

Last year, the lots were assessed as having zero taxable value, records show. But the tax bills Scott received for the properties this year, after a countywide reassessment, pegged each property as being worth at least \$229,000.

NALT unsuccessfully appealed the assessment to a county board, arguing that the covenant with the property owners association barring development on the properties means they shouldn't be taxed.

It then appealed that rejection to the county court.

"Since various open space lots are restricted from development by a recorded covenant and others are exempt by law from real estate taxation, we believe that it is inappropriate that the restricted open space be assessed for real estate tax purposes," NALT attorney John Snyder said.

Martin, the county solicitor, dismissed that argument.

"I don't believe the premise that if you can't develop the land, it's ipso facto worthless," he said.



NEWS

SPORTS

BUSINESS

OPINION

POLITICS

ENTERTAINMENT

LIFE

FOOD

HEALTH

ADVERTISEMENT

About Us

- About The Inquirer
- Advertise
- Contact Us
- Licensing & Permissions
- Photo Reprints
- Newspapers in Education
- Jobs & Internships
- Inquirer Events
- Acel Moore Workshops
- Newsroom Staff

News & Info

- News
- Sports
- Entertainment
- Business
- Health
- Food
- Life
- Opinion
- Archives
- Special Reports

Marketplace

- Subscribe
- Inquirer Store
- Job Listings
- All Classifieds
- Legal Notices
- Gift Subscriptions

e-Editions

- The Inquirer
- The Daily News
- Mobile Apps**
- Apple iOS
- Google Android



**RESOLUTION NO. 2015-51
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, APPROVING A LICENSE AGREEMENT WITH FERN
VALLEY FARM TO FARM PORTIONS OF THE ARDROSSAN PROPERTY**

WHEREAS, Richard Billheim d/b/a Fern Valley Farm ("Fern Valley") has been farming the Ardrossan Farm for over 25 years; and

WHEREAS, Fern Valley desires to continue to farm those portions of the Ardrossan Farm acquired by Radnor Township; and

WHEREAS, the Township desires to keep the land in active farming operation and maintenance.

NOW, THEREFORE, it is hereby **RESOLVED** that the Radnor Township Board of Commissioners does hereby approve an agreement with Fern Valley for a term of one year in accordance with the License Agreement attached hereto and incorporated herein as Exhibit "A".

SO RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 23 day of March, 2015.

RADNOR TOWNSHIP
BOARD OF COMMISSIONERS

By: William A. Spingler
Name: William A. Spingler
Title: President

ATTEST: _____

3.18.15

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made by and between ***RADNOR TOWNSHIP***, a Home Rule municipality, with offices located at 301 Iven Avenue, Wayne, PA 19087 (hereinafter referred to as "Township") and ***RICHARD BILLHEIM d/b/a FERN VALLEY FARM***, 567 Darby Paoli Road, Villanova, PA 19085 (hereinafter referred to as "Fern Valley").

WHEREAS, the Township acquired a portion of a certain property known as the Ardrossan Farm, consisting of 71 acres including three tracts, the Rye Field tract, the Quarry tract, and the Wheeler tract located near the intersection of Newtown Road and Darby Paoli Road in Radnor Township (hereinafter referred to as the "Property"); and

WHEREAS, Fern Valley has been farming a portion of the Property for over 25 years and has requested the Township that he be permitted to continue to farm a portion of the Property as described hereafter; and

WHEREAS, the parties agree that the continuation of farming activities will benefit the Township Property.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound hereby, the parties hereto agree as follows:

1. Fern Valley shall continue to farm the Property as follows:
 - a. Rye Field – hay and cattle grazing
 - b. Quarry Field – field corn
 - c. Wheeler Tract – cattle grazing

Fern Valley agrees in covenants to cultivate the property during the term of the license in an efficient and economic manner and to employ all modern methods of farming as are customarily practiced in the area.

2. Fern Valley shall obtain all necessary permits for any proposed farming activities upon the Township's Property in accordance with Township, State and Federal Rules and Regulations and Legislation. Fern Valley shall at all times be in compliance with its soil conservation plan approved by the NCRS.
3. Neither Fern Valley nor his agents shall perform any land clearing, tree removal, or other disturbance to the Property except as necessary to perform the farming activities described in this Agreement. Fern Valley shall

continue to perform roadside mowing along the Property and will maintain and repair all fences on the Property.

4. The term of this license shall be from March 1, 2015 to February 29, 2016 unless terminated sooner as provided herein.
5. Rent/License Fee – Fern Valley shall pay an annual license fee of \$1.00 upon approval of this license by the Radnor Township Board of Commissioners. Fern Valley may not assign this license or encumber any portion of the Property without the prior written consent of the Township.
6. Fern Valley will at all times utilize best management practices in conducting its farming operations and prior to any spraying, Fern Valley shall supply the Township with a copy of all licenses to use herbicides and pesticides. Fern Valley shall only spray such herbicides and pesticides as they are licensed to spray and all spraying shall be conducted by a person who is licensed to spray the herbicides and/or pesticides. Annually, Fern Valley shall provide a schedule of proposed herbicides and pesticides to the Radnor Township Director of Public Works. No chemicals, fertilizers or equipment may be stored upon the property except for equipment and vehicles used to farm the property. No spraying of herbicides or pesticides shall occur within 100 feet of a stream.
7. This license shall be renewed from year to year unless terminated by either party. Either party may terminate this license by giving sixty (60) days written notice.
8. Fern Valley agrees to pay all taxes levied and assessed against the premises as a result of its farming activities. Fern Valley may not make any alterations, additions, or improvements to the Property without the prior written consent of the Township.
9. In consideration of being permitted to farm the property, Fern Valley shall indemnify, release, and hold harmless the Township, its elected and appointed officials, and its employees from any and all losses, damages, claims, demands, actions or causes of action, including attorney's fees, for any damage to Property or injuries occurring on the Property arising out of Fern Valley's use of the subject Property under this License Agreement.
10. Fern Valley shall obtain a Certificate of Liability Insurance specifically naming the Township and its elected and appointed officials as additional insureds prior to use of the Property for the above purposes.

11. The terms and conditions set forth in this Agreement constitute the entire Agreement between the parties concerning its subject matter. This Agreement may not be amended except in writing signed by the parties to this Agreement.
12. Fern Valley is an independent contractor and is not an employee of the Township.

IN WITNESS WHEREOF, the parties hereto, by and through their duly authorized officers, intending to be legally bound hereby, have caused this Agreement to be executed the day and year first above written.

TOWNSHIP:

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: William A. Spingler
Name: William Spingler
Title: Chairman

Date: 3/23/15

FERN VALLEY:

By: Richard Billbeim
Name: Richard Billbeim
d/b/a Fern Valley Farm

Date: MARCH 18, 2016

ORDINANCE NO. 2021-15

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW ROOFTOP THROUGHOUT THE TOWNSHIP AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1. Rooftop Dining Regulations.

Article XX General Regulations

§280-115.7 is hereby adopted and shall read as follows:

§ 281-115.7 ROOFTOP DINING

- A. “Rooftop Dining” shall be defined as the use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.
- B. Rooftop Dining shall be permitted as an accessory use in all Zoning Districts when located on the same premises as a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:
 - (1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.
 - (2) Rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.
 - (3) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.
 - (4) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.
 - (5) Rooftop dining shall not be permitted in any building which contains a residential use.

- (6) Rooftop dining shall be permitted only between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.
- (7) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section (§280-53.16), "Residential Zoning District" shall mean any zoning district that permits residential uses by-right.
- (8) The rooftop dining area shall not extend beyond the width and depth of the building upon which the principal restaurant is located.
- (9) In order to limit visibility from the street, elevators, if any, and restrooms, if any, shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development Ordinance). In the event both adjacent streets have the same street classification, the rear of the rooftop shall be that area farthest from the adjacent street with highest average daily traffic.
- (10) The number of rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes, nor shall the number of rooftop seats exceed the number of seats in the principal restaurant use.
- (11) The rooftop area must be surrounded by railing or walls no less than 42 inches in height. The bar shall be located toward the center of the roof.
- (12) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the rooftop must be turned off when the rooftop area is not in use.
- (13) Food preparation on the rooftop, if any, shall not include an open flame.
- (14) Outdoor heaters shall meet the following requirements:
 - (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
 - (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto to the roof.
 - (c) Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.

- (d) No propane fired heaters shall be used on the roof.
- (15) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.
- (16) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- (17) Parking. One (1) parking space shall be provided per three (3) seats in the rooftop dining area. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the rooftop dining is in use. The applicant shall demonstrate, by means of an easement or long-term contract, that the parking spaces to be utilized by the rooftop dining establishment will be available for exclusive use of the rooftop dining facility. However, this subsection shall apply only to new seats over-and-above the total number of seats offered by the applicant pre-application; where an applicant proposes to add rooftop dining without adding additional seats to its facility, no additional parking shall be required.
- C. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment or shall be stored off site.
- D. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:
 - (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
 - (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
 - (3) The applicant shall seek and comply with safety recommendations from the police department and the fire marshal.
- E. Noise. Rooftop dining shall be subject to the noise regulations of Chapter 200. No live music shall be permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not

violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.

- F. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.
- G. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 2. Waiver. Where an applicant is able to demonstrate to the satisfaction of the Board of Commissioners that rooftop dining in compliance with the Zoning Code is reasonably impossible for bona fide engineering or financial reasons, but outdoor dining can be established under conditions similar to the provisions of Section 280-115.4 and not otherwise constituting a danger to the health, safety, or welfare of surrounding residents and businesses, the Board of Commissioners may, in its sole discretion, authorize the applicant to offer rooftop dining, outdoor dining as that term is defined in Section 280-115.4, or both, subject to such conditions as the Board of Commissioners may in its sole discretion impose. Nothing in this Section shall create a property right, vested right, or other enforceable right in any applicant.

Section 3. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 4. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 5. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and **ORDAINED** this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
Title: President

ATTEST: _____
William White, Secretary

ORDINANCE NO. 2021-15A

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE TO ALLOW ROOFTOP DINING THROUGHOUT THE TOWNSHIP AND TO PROVIDE REGULATIONS THEREFORE

IT IS HEREBY ORDAINED AND ENACTED by the Board of Commissioners of Radnor Township, Delaware County, Pennsylvania as follows:

Section 1.

Article XIII, Section 280-53.16 Rooftop dining regulations is hereby deleted in its entirety.

Section 2 Rooftop Dining Regulations.

Article XX General Regulations

§280-115.7 is hereby adopted and shall read as follows:

§ 281-115.7 ROOFTOP DINING

- A. "Rooftop Dining" shall be defined as the use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.
- B. Rooftop Dining shall be permitted as an accessory use in all Zoning Districts when located on the same premises as a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:

~~(1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.~~

~~(2)~~(1) Rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.

~~(3)~~(2) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.

~~(4)~~(3) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.

~~(5)~~(4) Rooftop dining shall not be permitted in any building which contains a residential use; exclusive of hotels, motels, or inns.

~~(6)~~(5) ~~Rooftop dining shall be permitted only between March 1 and November 30.~~ Hours of operation shall be from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.

~~(7)~~(6) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section (§280-53.16), "Residential Zoning District" shall mean any zoning district that permits residential uses by-right.

Commented [KK1]: A 100' buffer from a residential property line would prohibit the GH Ale House from having ground based outdoor dining.

~~(8)~~(7) The rooftop dining area shall not extend beyond the width and depth of the building upon which the principal restaurant is located.

~~(9) In order to limit visibility from the street, elevators, if any, and restrooms, if any, shall be located to the rear of the rooftop. In the case of a building located on a corner lot, the rear of the rooftop shall be that area located farthest from the adjacent street with the highest street classification. (See Section 255-27.B of the Subdivision and Land Development Ordinance). In the event both adjacent streets have the same street classification, the rear of the rooftop shall be that area farthest from the adjacent street with highest average daily traffic.~~

~~(10)~~(8) The number of rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes, nor shall the number of rooftop seats exceed the number of seats in the principal restaurant use.

~~(11)~~(9) The rooftop area must be surrounded by railing or walls no less than 42 inches in height. The bar shall be located toward the center of the roof.

~~(12)~~(10) All lighting of the rooftop area shall comply with the lighting requirements in the Township Code of Ordinances. All lights associated with the rooftop must be turned off when the rooftop area is not in use.

~~(13) Food preparation on the rooftop, if any, shall not include an open flame.~~

~~(14)~~(11) Outdoor heaters shall meet the following requirements:

- (a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.
- (b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto to the roof.

(c) Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.

~~(d) No propane fired heaters shall be used on the roof.~~

~~(15) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.~~

~~(16)~~(12) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.

~~(17)~~(13) Parking. One (1) parking space shall be provided per three (3) seats in the rooftop dining area. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the rooftop dining is in use. The applicant shall demonstrate, by means of an easement, ~~or~~ long-term contract or shared parking agreement, that the parking spaces to be utilized by the rooftop dining establishment will be available for exclusive use of the rooftop dining facility. However, this subsection shall apply only to new seats over-and-above the total number of seats offered by the applicant pre-application; where an applicant proposes to add rooftop dining without adding additional seats to its facility, no additional parking shall be required.

~~C. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment or shall be stored off site.~~

~~D.C.~~ Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:

- (1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.
- (2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.
- (3) The applicant shall seek and comply with safety recommendations from the police department and the fire marshal.

~~E~~.D. Noise. Rooftop dining shall be subject to the noise regulations of Chapter 200. No live music shall be permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.

~~F~~.E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

~~G~~.F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be a separate offense; each day a violation continues shall be the subject of a separate fine.

Section 23. Waiver. Where an applicant is able to demonstrate to the satisfaction of the Board of Commissioners that rooftop dining in compliance with the Zoning Code is reasonably impossible for bona fide engineering or financial reasons, but outdoor dining can be established under conditions similar to the provisions of Section 280-115.4 and not otherwise constituting a danger to the health, safety, or welfare of surrounding residents and businesses, the Board of Commissioners may, in its sole discretion, authorize the applicant to offer rooftop dining, outdoor dining as that term is defined in Section 280-115.4, or both, subject to such conditions as the Board of Commissioners may in its sole discretion impose. Nothing in this Section shall create a property right, vested right, or other enforceable right in any applicant.

Section 34. Repealer. All ordinances or parts of ordinances which are directly inconsistent herewith are hereby repealed.

Section 45. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

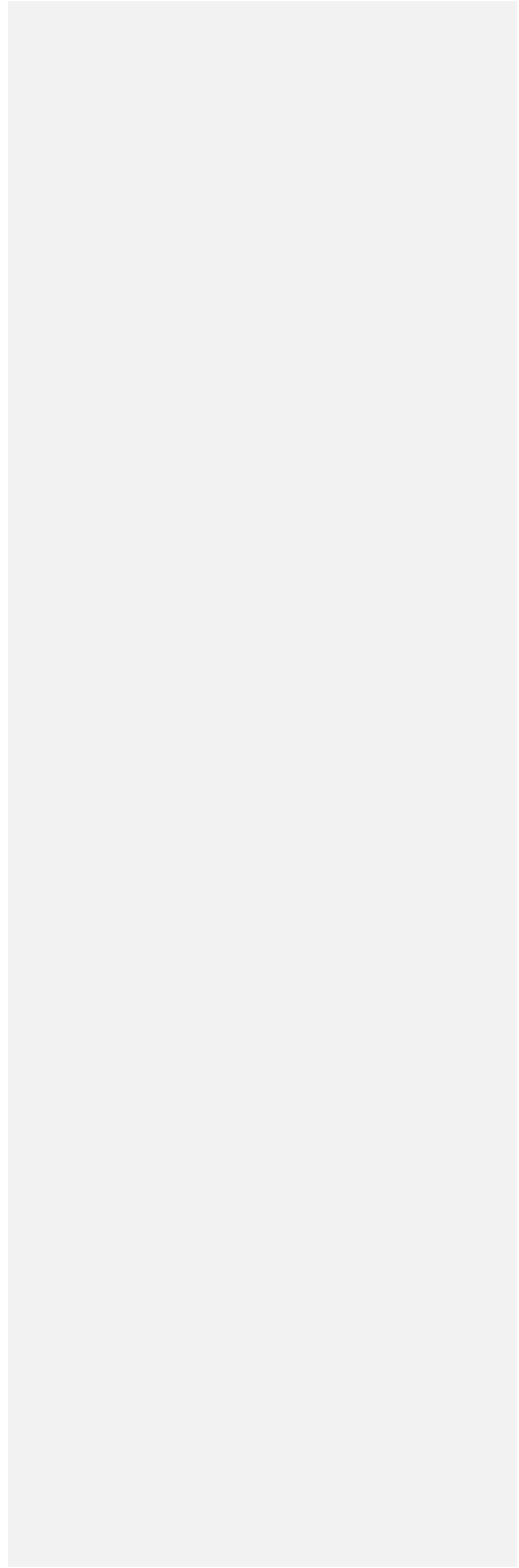
Section 56. Effective Date. This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and ORDAINED this _____ day of _____, 2021.

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS**

By: _____
Name: Jack Larkin
Title: President

ATTEST: _____
William White, Secretary



Reports of Standing Committees

Old Business
Report for OPEB
discussion
(Commissioner
Booker)

New Business
PECO contractor
incident
(Commissioner
Farhy) tabled from
10/18/2021

Public Participation

Adjournment