



**West Norriton Township
Work Session Agenda
September 4, 2018
7:00 PM**

- 1. Call To Order And Pledge Of Allegiance**
- 2. Reorganization Of Board Re: Resignation Of Brian J. Kennedy As President**
- 3. Manager's Items**
 - A. Improvements At Jeffersonville Golf Club - Status And Review**
 - B. Swearing In Of Corporal Andrew Oreo**
 - C. Hiring Process Of Police Officers**
 - D. Bid Opening For Joseph Street & Beaver Hollow Road On 9/6**
 - E. Assessment Appeal Of 2435 Boulevard Of The Generals**
- 4. Discussion/Update On Status**
 - A. Potential Ordinance Re: Permitting Sober Living Homes And Amending Group Homes**

Documents:

[ORDINANCE - SOBER LIVING AND GROUP HOME.PDF](#)
 - B. Potential Ordinance Re: Ratifying Cost-Sharing With NASD For Appraisals**

Documents:

[ORDINANCE - COST SHARING-NASD.PDF](#)
 - C. Potential Ordinance Re: Wireless Communications Facilities**

Documents:

[ORDINANCE - AMENDMENT TO WIRELESS COMMUNICATIONS FACILITIES.PDF](#)
 - D. Responsible Contractor Ordinance Re: Possible Amendment And Litigation**
 - E. Potential Ordinances Re: Fireworks**
 - i. Amending Chapter 10 "Health and Safety" to Add Part 8 "Fireworks" ; and
 - ii. Regulations for the Sale and Storage in the I-Industrial District; and

Documents:

[ORDINANCE - FIREWORKS.PDF](#)
[ORDINANCE - FIREWORKS ZONING.PDF](#)
- 5. Public Comment**

- a. Recognize individuals that are taxpayers or residents of West Norriton Township wishing to offer comment.
- b. Require the name and address of such persons wishing to comment.
- c. Permit each individual at minimum one (1) opportunity to speak. The President may require an individual who has already spoken to wait until all others wishing to speak have had the opportunity before permitting an additional opportunity to speak. Once all others have had the opportunity to speak, the President shall determine whether time would allow for additional comment from the individual wishing to speak. Such a determination shall be based solely on the factor of time and shall not be based on the content or viewpoint of the particular individual(s) seeking additional opportunity to speak.
- d. Provide for a five (5) minute maximum for each individual to offer public comment. There shall be no ceding or assigning of time. In no case shall a time limit of fewer than two (2) minutes be designated. It may be requested that a spokesperson from a group address the Board of Commissioners.
- e. Preserve order by prohibiting disruptive conduct including, but not limited to, speaking by any person who is not, at that time, taking part in public comment.

6. Upcoming Meeting(S):

- i. EAC - Wednesday, September 5, 2018;
- ii. Planning Commission - Monday, September 17, 2018 re: Main Street Corridor; and
- iii. Zoning Hearing Board - None

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**WEST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2018-_____

AN ORDINANCE TO AMEND THE WEST NORRITON TOWNSHIP ZONING ORDINANCE TO ADD A NEW PART 25 PERMITTING SOBER LIVING HOMES BY SPECIAL EXCEPTION IN ALL RESIDENTIAL DISTRICTS WITH CERTAIN REQUIREMENTS, TO AMEND CERTAIN DEFINITIONS AND PROVISIONS RELATING TO GROUP HOMES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the West Norriton Township (the “Township”), pursuant to the First Class Township Code, 53 P.S. § 55101, et seq., is authorized to make and adopt Ordinance that are constitute with the Constitution and the laws of the Commonwealth that it deems necessary for the proper management and control of the Township and welfare of the Township and its citizens;

WHEREAS, the Township deems it in the best interest and general welfare of the citizens and residents of the Township to amend its Zoning Ordinance to permit sober living homes by special exception in all residential zoning districts with certain requirements under a new Part 25, and to amend existing definitions and provisions relating to group homes as provided for in the existing Part 23 of the Zoning Ordinance;

WHEREAS, the Board of Commissioners has met the procedural requirements of 53 P.S. § 10101, et seq. under the Pennsylvania Municipalities Planning Code for the adoption of the proposed ordinance, including holding a public hearing; and

WHEREAS, the Board of Commissioners of West Norriton Township, after due consideration of the proposed ordinance at a duly advertised public hearing, has determined that the health, safety and general welfare of the residents of West Norriton Township will be served by this amendment to the the West Norriton Township Zoning Ordinance;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Commissioners of West Norriton Township, Montgomery County, Pennsylvania, and it is hereby enacted and ordained by the authority of same as follows:

SECTION 1: The following terms under § 2001 titled “Definition of Terms” of the West Norriton Township Zoning Ordinance are hereby amended to state as follows:

FAMILY

Any number of individuals living in a single, nonprofit housekeeping unit and doing their cooking on the premises, when said individuals are related by

blood, marriage or adoption; or no more than four (4) unrelated individuals living together as a single nonprofit housekeeping unit and doing their cooking on the premises. A "Group Home," or a "Sober Living Home" as these terms are defined herein, shall be considered a "family." This term specifically excludes individuals and groups occupying: a boarding or rooming house, a lodging house; a club; a group home, except as defined herein; a fraternity; a hotel; or a similar living environment.

GROUP HOME

A residential facility used as living quarters by any number of unrelated individuals, each of whom is handicapped within the meaning of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, living together, long-term, as a single, nontransient housekeeping unit, with such non-resident staff as may be needed to assist the residents with their daily life activities. To be considered a single, nontransient housekeeping unit, all residents must have common use of and access to all living areas, eating areas, bathrooms and food preparation and serving areas. A "group home" constitutes a "family," as defined herein. The maximum number of residents for a "group home" as defined herein shall not exceed the maximum number of occupants as set forth by the applicable building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or building. This definition shall not include a Sober Living Home as separately defined herein.

SECTION 2: The following term is hereby added in appropriate alphabetical order to § 2001 titled "Definition of Terms" of the West Norriton Township Zoning Ordinance as follows:

SOBER LIVING HOME

A residential facility used by six or more individuals residing together voluntarily or by court requirement to recover from drug, alcohol, and/or substance abuse and that does not include the current illegal use of or addition to a controlled substance as defined in 21 U.S. Code §802. Such facility must also serve as a transitional environment between rehabilitation facilities and reintegration into their future lives. This definition shall include sober houses, recovery houses, or sober living environments. This term specifically excludes individuals and groups occupying: a boarding or rooming house, a lodging house; a club; a group home; a fraternity; a hotel; or a similar living environment. The maximum number of residents for a "sober living home" as defined herein shall not exceed the maximum number of occupants as set forth by the applicable building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or building.

SECTION 3: The following provisions of Chapter 27, Part 23, titled "Group Homes" of the West Norriton Township Zoning Ordinance are amended to state as follows:

§27-2302 Permitted by Special Exception; Requirements

1. Group homes are permitted in all residential districts as a use by special exception pursuant to Chapter 27, Part 18, § 27-1805 and the requirements and regulations herein. Prior to obtaining a permit and a special exception approval for a group home use, the applicant shall provide evidence of the following:

A. The lot upon which the group home or institutional residence is situated shall meet the minimum area requirements established in the zoning district regulations for the zoning district in which the use is to be located. The group home shall not be located in an accessory building or unit unless the primary building or dwelling unit is used for the same purpose. Additionally, and in order to integrate group homes into a neighborhood and create a deinstitutionalized setting for the residents of group homes, no group home may be located within 625 feet of another group home as measured from the property line.

B. Residents of a group home shall maintain a single household unit with shared use of living areas, eating areas, bathrooms and food preparation and serving areas, and shall share mealtimes and housekeeping responsibilities.

C. Accommodations in a group home shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or building. Applications for group homes shall specify the maximum number of residents or occupants to be housed or cared for at the facility.

D. Applicants for group homes shall indicate the type of care, counseling or treatment to be provided at the site to the extent permitted by law. In each instance, medical care shall be incidental in nature and shall not be a major element of the care being provided at the facility.

E. Evidence shall be provided with the application for a group home indicating that all applicable federal, state and/or county certification and licensing requirements have been met for the particular type of care provided. In the event an applicant is not subject to any such licensing and certification requirements, the applicant shall provide evidence that the applicant would be in compliance if subject to the same health, safety and welfare standards as required the applicable federal, state and/or county agency.

F. Sewage and water facilities shall be sufficient to handle the anticipated loading created by the proposed facility and shall meet all requirements of the Pennsylvania Department of Environmental Protection and/or the applicable public or community Sewer and Water Boards or Authorities.

G. Arrangements for the collection, storage and disposal of solid waste generated by the facility shall be made by the applicant and submitted to the Township for approval as part the application for such a use.

H. Notwithstanding any provisions of the West Norriton Township Building Code, the group home shall have the following installed throughout the building and any attached accessory building(s)::

(1) a fire sprinkler system which complies with NFPA 13D “Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes,” or the current corresponding section of the NFPA as may be amended from time to time; and

(2): A fire alarm system which complies with Chapter 11 of NFPA 72 “National Fire Alarm and Signaling Code,” or the current corresponding section of the NFPA as may be amended from time to time.

I. The group home must comply with the West Norriton Township Building Code and an applicant seeking group home use shall provide with its application evidence that the building(s) size and layout is in compliance with the applicable building codes for maximum number of individuals intended to be housed in the building(s). To satisfy this requirement, the Zoning Hearing Board may request that an applicant provide a dimensioned floor plan indicating the size of each room, including sleeping rooms, and identifying the maximum number of residents who will occupy each sleeping room, to demonstrate that the group home will not be overcrowded.

J. Off-street parking must be adequate to accommodate the needs of the residents and staff. At a minimum, the group home must meet the minimum requirements for the district in which it is located.

K. The group home will not alter the essential character of the neighborhood or district in which the group home is located.

L. To the extent not already addressed above, the property, including all buildings located thereon, must be in compliance with all applicable federal, state and local laws, including but not limited to, the Pennsylvania Uniform Construction Code, the International Fire Code and the International Fuel Gas Code as may be adopted and in effect by the Township.

§27-2304 Registration with Township.

1. The group home shall register with the Township, in writing, the following: its location, general type of treatment/care, maximum number of residents and sponsoring agency.

2. Any other registration of group home residents with any state and/or county agency for emergency preparation purposes and to the extent permitted by law shall also be provided to the Township including any updates in accordance with the applicable state and/or county regulations.

SECTION 4: Chapter 27, titled “Zoning” shall be amended to add a new Part 25 titled “Sober Living Home” that shall state as follows:

§27-2501 Intent.

It is the specific intent of this Part to promote the safety, morals and general welfare of the inhabitants of West Norriton Township in their person and property by permitting sober living homes in the Township, subject to the requirements of this Part. Additionally, permitting sober living homes by special exception in residential districts will increase the availability of housing and access to valuable services for Township residents with disabilities without altering the essential character of the neighborhood or district in which the sober living home is located.

§27-2502 Permitted by Special Exception; Requirements.

1. Sober living homes are permitted in all residential districts as a use by special exception pursuant to Chapter 27, Part 18, § 27-1805 and the requirements and regulations herein. Prior to obtaining a permit and a special exception approval for a sober living home use, the applicant shall provide evidence of the following:

A. The lot upon which the sober living home or institutional residence is situated shall meet the minimum area requirements established in the zoning district regulations for the zoning district in which the use is to be located. The sober living home shall not be located in an accessory building or unit unless the primary building or dwelling unit is used for the same purpose. Additionally, and in order to integrate sober living homes into a neighborhood and create a deinstitutionalized setting for the residents of sober living homes, no sober living home may be located within 625 feet of another group home as measured from the property line.

B. Residents of a sober living home shall maintain a single household unit with shared use of living areas, eating areas, bathrooms and food preparation and serving areas, and shall share mealtimes and housekeeping responsibilities.

C. Accommodations in a sober living home shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or building. Applications for group homes shall specify the maximum number of residents or occupants to be housed or cared for at the facility.

D. Registration with the Commonwealth and compliance with all regulations for licensure or certification as promulgated by the Department of Drug and Alcohol Programs in accordance with 71 P.S. §613.13 or such other Commonwealth agency or department as authorized by law. In the event that the Sober Living Home is not registered and is not required to be licensed or certified by the Commonwealth, then the Sober Living Home shall provide either: (1) documentation that it would comply if subject to licensure and certification, or (2) documentation that the Sober Living Home is a member in good standing and in compliance with all rules and/or regulations of a recognized countywide,

statewide, or nationwide Association of Recovery Homes or equivalent professional accrediting organization. Additionally, and annually thereafter, each operator must provide similar proof of Commonwealth registration and compliance or continued status as a member in good standing and in compliance with all the rules and/or regulations of a recognized county, state or national professional association.

E. Proof that the Sober Living Home has policies, procedures and regulations that substantially address the following:

(1) At least 48 hours prior to an occupant's eviction from or involuntary termination of residency in the sober living home, the operator thereof shall:

(i) notify the person designated as the occupant's emergency contact or contact of record that the occupant will no longer be a resident at the property;

(ii) contact the appropriate county or state agency to determine the services available to the occupant, including, but not limited to, alcohol and drug inpatient and outpatient treatment, and shelter or homeless services;

(iii) provide the information obtained from the applicable county or state agency to the occupant prior to his or her release on a readable form that is signed by the occupant as proof of his or her receipt of the available services;

(2) Prior to an occupant's eviction from or involuntary termination of residency in the sober living home, the operator shall:

(i) make available to the occupant transportation to the address listed on the occupant's driver license, state issued identification car, or the permanent address identified in the occupant's application or referral to the sober living home; and

(ii) in the event the occupant declines said transportation or otherwise has no permanent address, then the operator shall make available to the occupant transportation to another sober living home or residential care facility that has agreed to accept the occupant.

(3) Rules and regulations that prohibit the use of any alcohol or any non-prescription drugs at the sober living home or by any recovering addict either on or off site;

(4) Rules and regulations that the facility cannot dispense medications unless licensed to do so, and that the possession or use of prescription medications is prohibited except for the person to whom they are prescribed and in the amounts/dosages prescribed; and

(5) Rules and regulations that shall direct occupants to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit in accordance with the Township's health and safety ordinances as contained

in Chapter 10 of the West Norriton Township Code and other ordinances of general applicability.

F. If permitted by law, supervisory, counseling and medical services, may be provided but only to those individuals residing in the sober living home and no outpatient services shall be provided to individuals who are not residents of the sober living home; and all occupants, other than a house manager, must be actively participating in legitimate recovery programs, including, but not limited to, Alcoholics Anonymous or Narcotics Anonymous and the sober living home must maintain current records of meeting attendance.

G. Sewage and water facilities shall be sufficient to handle the anticipated loading created by the proposed facility and shall meet all requirements of the Pennsylvania Department of Environmental Protection and/or the applicable public or community Sewer and Water Boards or Authorities.

H. Arrangements for the collection, storage and disposal of solid waste generated by the facility shall be made by the applicant and submitted to the Township for approval as part the application for such a use.

I. Notwithstanding any provisions of the West Norriton Township Building Code, the group home shall have the following installed throughout the building and any attached accessory building(s):

(1) a fire sprinkler system which complies with NFPA 13D “Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes,” or the current corresponding section of the NFPA as may be amended from time to time; and

(2) A fire alarm system which complies with Chapter 11 of NFPA 72 “National Fire Alarm and Signaling Code,” or the current corresponding section of the NFPA as may be amended from time to time.

I. The sober living home must comply with the West Norriton Township Building Code and an applicant seeking group home use shall provide with its application evidence that the building(s) size and layout is in compliance with the applicable building codes for maximum number of individuals intended to be housed in the building(s). To satisfy this requirement, the Zoning Hearing Board may request that an applicant provide a dimensioned floor plan indicating the size of each room, including sleeping rooms, and identifying the maximum number of residents who will occupy each sleeping room, to demonstrate that the group home will not be overcrowded.

J. Off-street parking must be adequate to accommodate the needs of the residents and staff. At a minimum, the sober living home must meet the minimum requirements for the district in which it is located.

K. The group home will not alter the essential character of the neighborhood or district in which the group home is located.

L. To the extent not already addressed above, the property, including all buildings located thereon, must be in compliance with all applicable Federal,

State and local laws, including but not limited to, the Pennsylvania Uniform Construction Code, the International Fire Code and the International Fuel Gas Code as may be adopted and in effect by the Township.

§27-2502 Inspections.

The owner, operator or agent of a sober living home shall permit inspections thereof by the Code Enforcement Officer annually. If the owner, operator or agent does not permit such inspection by the Code Enforcement Officer, the Township may seek any appropriate legal or equitable relief to compel access to such property for such inspection.

§27-2304 Registration with Township.

1. The group home shall register with the Township, in writing, the following: its location, general type of treatment/care, maximum number of residents and sponsoring agency.

2. Any other registration of sober living home residents with any state and/or county agency for emergency preparation purposes and to the extent permitted by law shall also be provided to the Township including any updates in accordance with the applicable state and/or county regulations.

§27-2305 Proof of Staff Licensure, Certifications.

1. If required by state or federal law, all caretakers, administrators and staff must be duly licensed and/or certified by, the Department of Public Welfare, Department of Health and other federal, state or county agency, as may be required for the particular type of care provided and the nature of the employee's responsibilities. Additionally, and to the extent required by state or federal law, every employee of the sober living home must have valid criminal background clearances, licensure and/or certification with the issuing agency or agencies while employed by the sober living home.

2. If licenses, certification or clearances are required by state or federal law, then the owner, operator or agent of any sober living home shall provide the Township with a register of all employees and furnish proof of all required licenses, certifications and criminal background clearances for each employee prior to commencing operation in the Township. Thereafter, an updated register and proof of licensure, certifications and criminal background clearances shall be provided on at least an annual basis.

3. If licenses, certification or clearances are required by state or federal law, for every new person employed by the sober living home, the name of the employee, along with proof of all required licenses, certifications and criminal background clearances, shall be submitted to the Township prior to the commencement of the employment.

SECTION 5: REPEALER. All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION 6: REVISIONS. The West Norriton Township Board of Commissioners does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

SECTION 7: SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the West Norriton Zoning Ordinance or Zoning Map.

SECTION 8: EFFECTIVE DATE. This amendment shall become effective five (5) days after date of adoption.

ORDAINED AND ENACTED by the Board of Commissioners for West Norriton Township, Montgomery County, Pennsylvania, this ____ day of _____, 2018.

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS:**

Jason Bobst, Township Manager

By: _____
_____, President

**WEST NORRITON
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF WEST NORRITOWN TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA RATIFYING AN INTERGOVERNMENTAL AGREEMENT ENTERED INTO BY AND BETWEEN NORRISTOWN AREA SCHOOL DISTRICT BOARD OF SCHOOL DIRECTORS AND THE WEST NORRITON BOARD OF SUPERVISORS FOR COST SHARING FOR APPRAISAL SERVICES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 53 Pa.C.S. §2301, *et seq.*, known as the Intergovernmental Cooperation Act, permits two or more local governments to jointly cooperate in the exercise or in the performance of their respective governmental functions, powers or responsibilities; and

WHEREAS, the Intergovernmental Cooperation Act, requires all intergovernmental agreements to be approved by ordinance; and

WHEREAS, a need has arisen for the Norristown Area School District Board of School Directors (“NASD”) and the West Norriton Board of Supervisors (“WNT”) to share costs for appraisal services; and

WHEREAS, NASD and WNT have agreed to enter into a Cost Sharing Agreement for Appraisal Services stipulating that West Norriton Township will reimburse the Norristown Area School District for ten (10) percent of the appraisal costs incurred up to a total of \$1,000 as a result of the tax assessment appeals taken by VRJ Associates, LP, owners of the real estate known as Westover Country Club and Golf Course in West Norriton Township.

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Commissioners of West Norriton Township, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I: The Agreement, a copy of which is attached hereto and incorporated herein by reference, is hereby approved pursuant to the Intergovernmental Cooperation Act, 53 Pa.C.S. §2301, *et seq.*

The President of the Board of Commissioners and other such proper officers of West Norriton Township are authorized to execute all documents on behalf of West Norriton Township needed to complete the Agreement.

SECTION 2: SEVERABILITY.

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, West Norriton Township Board of Commissioners hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION 3: REPEALER.

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall be effective immediately upon its legal enactment by the Board of Commissioners of West Norriton Township.

ORDAINED AND ENACTED, by the Board of Commissioners of West Norriton Township, Montgomery County, Pennsylvania, this _____ day of _____, 2018

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS:**

Jason Bobst, Township Manager

By: _____
_____, President

**WEST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

**AN ORDINANCE OF WEST NORRITON TOWNSHIP, MONTGOMERY COUNTY,
PENNSYLVANIA AMENDING CHAPTER 27 PART 24 OF THE WEST NORRITON
TOWNSHIP ZONING ORDINANCE ENTITLED WIRELESS COMMUNICATIONS
FACILITIES TO FURTHER REGULATE SUCH FACILITIES; REPEALING ALL
INCONSISTENT ORDINANCES OR PARTS THEREOF; AND PROVIDING A
SEVERABILITY CLAUSE AND EFFECTIVE DATE**

WHEREAS, the First Class Township Code vests the West Norriton Township Board of Commissioners with the authority to adopt ordinances necessary for the proper management, care and control, and welfare of the Township; and

WHEREAS, Federal and Pennsylvania law authorizes the Township to regulate the placement, construction, and modification of Wireless Communications Facilities through its Zoning Ordinance; and

WHEREAS, the Board of Commissioners has enacted provisions in its Zoning Ordinance, setting forth standards and guidelines for the siting, design, permitting, maintenance, and use of Wireless Communications Facilities in the Township, to plan for and accommodate the managed deployment of infrastructure that is necessary to accommodate the wireless communications needs of the Township’s residents, businesses and emergency service providers, while balancing the benefit of wireless communications facilities in providing high quality communications service and enhancement to its residents, businesses and emergency service providers, and the Township’s obligation to protect public safety; and

WHEREAS, the Board of Commissioners seeks to amend the Township’s Wireless Communications Facilities Ordinance to further regulate wireless communications facilities and the related evolving technology; and

WHEREAS, the Board of Commissioners has determined that the following amendments and enacting provisions related thereto will promote the proper management, care and control, and welfare the Township.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED, by the Board of Commissioners of West Norriton Township as follows:

SECTION I. CODE AMENDMENT

Section 27-2001 of the West Norriton Township Zoning Ordinance, entitled “Definitions of Terms” is hereby amended to add the following definitions:

ACCESSORY EQUIPMENT. Any equipment serving or being used in conjunction with a wireless telecommunications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

AERIAL FACILITIES. Poles, wires, cables, equipment, and other facilities located above the surface of the ground, including their underground supports and foundations. Such term does not include private driveways, newspaper vending machines, street banners, canopies or other minor obstructions located in the rights-of-way.

ANTENNA HEIGHT. The vertical distance measured from the base of the wireless support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ELIGIBLE SUPPORT STRUCTURE. Any tower or base station, existing at the time the relevant application is filed.

EXISTING. A constructed tower or base station is existing for purposes of this Chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

FAA. Federal Aviation Administration.

GUY or GUYED. A tensioned cable providing stability to a wireless communication tower. A guyed tower is anchored by cables.

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (“NON-TOWER WCF”). Wireless communications facilities located 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. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.

PERSON(S). Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania, provided that “person” does not include or apply to the Township, or to any department or agency of the Township.

RELATED EQUIPMENT. Any piece of equipment related to, incident to, or necessary for, the operation of a Tower-Based or Non-Tower WCF. Related equipment includes but is not limited to generators and base stations.

REPLACEMENT. The replacement of wireless support structures, or existing wireless telecommunications 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 telecommunications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.

SITE. For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower, and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure, and to other transmission equipment already deployed on the ground.

TELECOMMUNICATIONS. The transmission between or among points specified by the user of information of the user's choosing without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS PROVIDER. A person who provides telecommunications service over telecommunications facilities.

TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TELECOMMUNICATIONS SYSTEM. A system that offers telecommunications service.

TOWER. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services (i.e. Wi-Fi) and fixed wireless services (i.e. point to point microwave transmission) such as microwave backhaul, and the associated site. A building, water tower, electrical transmission tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure designed and constructed for a sole or primary purpose other than supporting any FCC-licensed or authorized antennas and their associated facilities, shall not be considered a tower.

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (“TOWER-BASED WCF”). Wireless communications facilities that include the installation of a new tower to support the transmission equipment. A WCF that requires the replacement of an existing structure (i.e. building, water tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure) to support the weight of a WCF is not considered a new Tower-Based WCF.

TOWNSHIP. West Norriton Township, Montgomery County, Pennsylvania

UNDERGROUND FACILITIES. Utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for aerial facilities.

WBCA. Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq., *as amended*)

WIRELESS COMMUNICATIONS FACILITY APPLICANT OR APPLICANT (“WCF APPLICANT”). Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public ROW or other Township-owned land or property.

The following definitions set forth in Section 27-2001 are hereby amended as follows:

The definition for the term “**BASE STATION**” is deleted in its entirety and amended to state:

“A station at a specified site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

- A. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services (i.e., Wi-Fi) and fixed wireless services (i.e. point to point microwave transmissions) such as microwave backhaul.
- B. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- C. The term includes any structure other than a tower that, at the time the relevant application is filed with the Township under this subpart, supports or houses equipment described in subparagraphs (A) and (B) of this definition, that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- D. The term does not include any structure that, at the time the relevant application is filed with the Township under this section, does not support or house equipment described in subparagraphs (A) or (B) of this definition.”

The definition for the term “**MONOPOLE**” is deleted in its entirety and amended to state:

“A WCF or site which consists of a single-pole structure, designed and erected on the ground or on top of a structure, to support communications antennas and connecting appurtenances.”

The definition for the term “**STEALTH TECHNOLOGY**” is deleted in its entirety and amended to state:

“Camouflaging methods applied to wireless communications towers, antennas and other facilities which render them more visually appealing, or blend the proposed facility into the existing structure, or visual backdrop, in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, flag poles and light poles.”

The term and definition for “**SUBSTANTIAL CHANGE OR SUBSTANTIALLY CHANGE (WIRELESS TELECOMMUNICATIONS FACILITIES)**” are deleted in their entirety and amended as follows:

“SUBSTANTIALLY CHANGE (WIRELESS COMMUNICATIONS FACILITIES).

A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- A. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

- (1) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (47 U.S.C. §1455).

- B. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

- C. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- D. It entails any excavation or deployment outside the current site;
- E. It would defeat the concealment elements of the eligible support structure; or
- F. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 47 CFR § 1.40001(b)(7)(i) through (iv).

The definition for the term “**WIRELESS SUPPORT STRUCTURE**” is deleted in its entirety and amended to state:

“A freestanding structure, such as a guyed or self-supporting monopole or tower, electrical transmission tower, water tower, building, light pole, utility pole, traffic signal and other similar structure, that could support the placement or installation of wireless telecommunications facilities if approved by the Township.”

The term “**WIRELESS TELECOMMUNICATIONS FACILITY**” is hereby deleted in its entirety and amended to state “**WIRELESS COMMUNICATIONS FACILITY (“WCF”)**.”

Sections 27-2401 through 27-2408 are hereby deleted in their entirety, and amended to add the following:

§27-2401. Intent.

By enacting these provisions, the Township intends to:

- A. Establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in West Norriton Township.
- B. Promote the health, safety, and welfare of Township residents and businesses with respect to wireless communications facilities.

- C. Provide for the managed development of wireless communications facilities in a manner to provide adequate wireless communications services within the Township in accordance with federal and state laws and regulations.
- D. Establish procedures for the design, siting, construction, installation, maintenance, and removal of wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way.
- E. Address new wireless technologies, including but not limited to, distributed antenna systems, small cell technology, and other wireless communications facilities.
- F. Encourage the collocation of wireless communications facilities on existing structures rather than the construction of new wireless support structures.
- G. Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape.
- H. Update the Township's wireless communications facilities regulations to incorporate changes in federal and state laws and regulations.

§27-2402. General Requirements for all Non-Tower Wireless Communications Facilities.

- A. Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones, subject to the restrictions and conditions prescribed below, and subject to applicable permitting by the Township.
- B. Prohibited on Certain Structures. Commercial Non-Tower WCFs shall not be located on any residences or accessory residential structures in the following districts:
 - (1) R-1 Residence District
 - (2) R-2 Residence District
 - (3) R-3 Residence District
 - (4) A Apartment House District
 - (5) R-A Rural Residence District
- C. Standard of Care. All Non-Tower WCFs shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors.
- D. Easement. Where a proposed collocated Non-Tower WCF will be located on a property with another principal use, the Applicant shall present documentation evidencing that the

owner of the property has granted an easement, license agreement, or other access agreement satisfactory to the Township for the proposed facility, and that vehicular access is provided to that facility.

- E. Maintenance. All Non-Tower WCFs shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property. The following maintenance requirements shall apply:
 - (1) All Non-Tower WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (2) Such maintenance shall be performed to ensure the upkeep of the facility, in order to promote the safety and security of the Township's residents.
 - (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- F. Wind. All Non-Tower WCFs and Related Equipment shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-G, as amended).
- G. Aviation Safety. All Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- H. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- I. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other Non-Tower or Tower-Based WCFs, generate radio-frequency emissions in excess of FCC standards and regulations, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," as amended.
- J. Noise. Non-Tower WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards, under state law and the Township Code, except in Emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- K. 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 Non-Tower WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Article. The Applicant and/or owner of the Non-Tower 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.

- L. 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 Non-Tower WCF, as well as related inspection, monitoring and related costs.
- M. Historic Buildings or Districts. No Non-Tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or the official historic structures and/or historic districts list maintained by the Township, or that has been designated by the Township as being of historic significance.
- N. Discontinuation, Abandonment, and Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use, and the date when the use shall be discontinued. Unused or abandoned WCFs or portions thereof, shall be removed as follows:
 - (1) All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site, unless a time extension is approved by the Township.
 - (2) If the WCF or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the 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.
- O. Insurance. Each person that owns or operates a Non-Tower WCF, shall provide the Township with a certificate of insurance, evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence, and property damage coverage in the amount of \$1,000,000 per occurrence covering the Non-Tower WCF.
- P. Indemnification. Each person that owns or operates a Non-Tower 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 Non-Tower 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 Non-Tower 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.

Q. In addition to the requirements set forth in subsections A-O of this Section, the following requirements shall apply to all Non-Tower WCFs that Substantially Change the physical dimensions of the Wireless Support Structure to which they are attached:

(1) Special Exception Authorization Required. Any WCF Applicant proposing the construction of a new Non-Tower WCF, or the Modification of an existing Non-Tower WCF, shall first obtain a special exception authorization from the Township. The special exception application shall demonstrate that the proposed facility complies with all applicable provisions of the District, as set forth in the Township's Zoning Ordinance.

(2) Notice. Upon submission of an application for a Non-Tower WCF that Substantially Changes the physical dimensions of the Wireless Support Structure, the Applicant shall mail notice to all owners of every property within three hundred (300) feet of the proposed facility. The Applicant shall provide proof of the notification to the Township.

R. Aesthetic, or Land Use Impact. All Non-Tower WCFs shall be aesthetically and architecturally compatible with the surrounding environment and the characteristics of the applicable zoning district.

S. In addition to the requirements in Subsections A-Q above, the following regulations shall apply to all collocated Non-Tower WCFs that do not Substantially Change the Physical Dimensions of the Wireless Support Structure to which they are attached:

(1) Building Permit Required. WCF Applicants proposing the Modification of an existing Tower-Based WCF shall obtain a building permit from the Township. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.

(2) Timing of Approval for Applications Subject to the WBCA. Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Township, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the WCF Applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the Township's sixty (60) day review period. The timing requirements in this section shall only apply to proposed facilities that fall under the Pennsylvania Wireless Broadband Collocation Act.

(3) Accessory Equipment. Ground-mounted Accessory Equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use.

- (4) 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 Non-Tower WCF or \$1,000, whichever is less. -

T. Replacement, Collocation, or Modification.

- (1) An application for replacement, Collocation, or Modification of a previously approved WCF or Wireless Support Structure, shall be reviewed in conformance with the Township's building permit requirements, including requirements applicable to the added structural loading of the proposed Antennas and accessory equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, or review beyond the initial zoning or land use approvals issued for the previously approved Wireless Support Structure or WCF, provided the proposed Collocation, Modification, or replacement does not Substantially Change the physical dimensions of the Wireless Support Structure to which the WCFs are to be attached.
- (2) Timing of Approval. Within thirty (30) calendar days of the date that an application for Modification or Collocation is filed with the Township the Township shall notify the Applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Township shall make its final decision regarding whether to approve or deny the application, and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the Applicant to provide the application shall not be counted toward the Township's ninety (90) day review period.
- (3) Replacement of WCFs on existing Wireless Support Structures, or within existing Equipment Compounds may be performed by the Applicant without obtaining building permits or zoning relief from the Township, provided that the Replacement does not Substantially Change the dimensions of the underlying Wireless Support Structure.
- (4) Mounting. An Applicant proposing to mount a Non-Tower WCF on a building or any other structure, shall submit detailed construction and elevation drawings, indicating how the WCF will be mounted on the existing structure, for review by the Township, for compliance with the Township's Building Code.

§27-2403. Non-Tower Wireless Communications Facilities Located Outside the Rights-of-Way.

The following additional regulations shall apply to Non-Tower WCFs located outside the ROW, that Substantially Change the Wireless Support Structure to which they are attached:

- A. Special Exception. If Collocation of the Non-Tower WCF is not technologically feasible, the Applicant shall apply to the Zoning Hearing Board for a special exception. The Applicant's application for a special exception shall include proof to the Zoning

Hearing Board that Collocation is not technologically feasible.

B. Development Regulations. Non-Tower WCFs shall be collocated on existing structures, such as existing buildings or Tower-Based WCFs, subject to the following conditions:

- (1) Such WCF does not exceed the lesser of a total maximum height of fifteen (15) feet, or the maximum height permitted in the underlying zoning district. If the planned Non-Tower WCF exceeds this height specification, the WCF Applicant shall obtain a variance. In order to obtain such variance, the WCF Applicant shall provide documentation showing that the excess height is necessary and the least intrusive method of providing Wireless service.
- (2) If the WCF Applicant proposes to locate the related equipment in a separate building, the building and accessory structures shall have a maximum building footprint of six hundred (600) square feet, and a maximum height of fifteen (15) feet. The building and accessory structures shall comply with the minimum requirements for the applicable zoning district, to the extent they do not conflict with the requirements of this section.
- (3) A security fence of not less than six (6) feet in height, shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

C. Design Regulations.

- (1) Non-Tower WCFs shall employ Stealth Technology, and be treated to match the supporting structure, in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Township.
- (2) All Non-Tower WCF Applicants must submit documentation to the Township, justifying the total height of the Non-Tower WCF. Such documentation shall be analyzed in the context of such justification on an individual basis.
- (3) Antennas, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
- (4) Noncommercial Usage Exemption. The design regulations enumerated in this Section, shall not apply to direct-broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.

D. Removal, Replacement, Modification.

- (1) The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the number of Antennas.

(2) Any substantial Modification to a Non-Tower WCF shall require a prior amendment to the original permit or authorization.

E. Inspection. The Township reserves the right to inspect any Non-Tower WCF, to ensure compliance with the provisions of this Article, and any other provisions found within the Township's Code of Ordinances, or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a Non-Tower WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

§27-2404. Non-Tower Wireless Communications Facilities Located in the Rights-of-Way.

A. Collocation. Non-Tower WCFs in the ROW, shall be collocated on existing poles, such as existing utility or light poles. If Collocation is not technologically feasible, the Applicant shall locate its Non-Tower WCFs on existing poles or structures that do not already act as Wireless Support Structures. Applicants shall certify that the proposed installation will not exceed the structural capacity of the building, or other structure upon which the Non-Tower WCF is collocated.

B. Right-of-Way Permit. Applicants seeking to install Non-Tower WCFs and/or Related Equipment in the ROW, must obtain a ROW permit, and submit an executed ROW Agreement to the Township.

C. Compensation for ROW Use. In addition to permit fees as described above, every Non-Tower WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation 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 Non-Tower WCF shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW management fee for Non-Tower WCFs shall be determined by the Township and authorized by resolution of the Township Board of Commissioners and shall be based on the Township's actual ROW management costs as applied to such Non-Tower WCF.

D. Special Exception. Applicants that propose to locate Non-Tower WCFs, on existing structures, shall apply to the Zoning Hearing Board for a special exception, subject to the requirements of §27-2402.Q.

E. Design Requirements.

(1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

- (2) Antennas and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- F. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- G. Equipment Location. Non-Tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- (1) Ground-mounted equipment shall be located between the sidewalk and the curb. In no case, shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb, or, in the absence of a curb, the edge of the pavement.
 - (2) Accessory equipment mounted to a support structure in the ROW, shall not exceed a height of eight (8) feet.
 - (3) Ground mounted equipment that cannot be placed underground shall be screened to the fullest extent possible through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (4) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (5) Any graffiti on the WCF or accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
 - (6) Any proposed underground vaults related to Non-Tower WCFs shall be reviewed and approved by the Township.
- H. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary, or such shorter period in the case of an Emergency, an owner of a Non-Tower 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 have determined 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 ROW;
- (2) The operations of the Township or other governmental entity in the ROW;
- (3) Vacation of a street or road or the release of a utility easement; or
- (4) An Emergency as determined by the Township.

§27-2405. Requirements for Tower-Based Wireless Communications Facilities.

A. Permitted by Special Exception in Certain Zones. Any applicant proposing the construction of a new Tower-Based WCF, or the Modification of an existing Tower-Based WCF, which Substantially Changes the WCF or support structure, shall apply to the Zoning Hearing Board for a special exception.

- (1) The following regulations shall apply to Tower-Based WCFs greater than forty (40) feet in height:
 - a) Such Tower-Based WCFs are permitted by special exception, in the following zoning Districts, subject to the further requirements of this Section:
 - i. I Industrial District
 - ii. LC&I Limited Commercial and Industrial District
 - b) Such Tower-Based WCFs shall not be located within one hundred (100) feet of the zoning district boundary of the following districts:
 - i. R-A Rural Residence District
 - ii. R-1 Residence District
 - iii. R-2 Residence District
 - iv. R-3 Residence District
 - v. A Apartment District
 - vi. R-R Retirement Residential District
 - vii. Any registered historic district
 - c) Such Tower-Based WCFs shall not be located in, or within one hundred and fifty (150) feet of any area in which utilities are underground.
- (1) Tower-Based WCFs that are forty (40) feet in height or shorter shall also be permitted in the following zoning Districts, subject to the further requirements of this Section, provided they shall not be located on the front façade of any structure:

- a) B-P Business and Professional District
 - b) C Commercial District
 - c) L-C Limited Commercial District
- (2) New Wireless Support Structures shall be permitted by special exception within PECO right-of-way areas, provided that such new structures are located within an existing PECO structure.
- (3) Site Requirements. A Tower-Based WCF may be located as permitted by District regulations, subject to all of the conditions listed in this Article.
- (4) Non-Conforming Uses. 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 Article.

B. Siting.

- (1) Tower-Based WCFs outside the ROW. No Tower-Based WCF forty (40) feet in height shall be sited or constructed within fifteen hundred (1,500) feet of any other Tower-Based WCF outside the ROW.
- (2) Tower-Based WCFs in the ROW. No Tower-Based WCF shall be sited or constructed within eight hundred (800) feet of any other Tower-Based WCF in the ROW.
- (3) Historic Buildings or Districts. No Tower-Based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or the official historic structures and/or historic districts list maintained by the Township, or that has been designated by the Township as being of historic significance.

C. Height. Any Tower-Based WCF shall be designed at the minimum functional height. All Tower-Based WCF Applicants shall submit documentation to the Township, justifying the total height of the structure.

- (1) Outside the ROW. The maximum total height of any Tower-Based WCF, not located in the public ROW, shall not exceed one hundred thirty (130) feet, as measured vertically from the ground level, to the highest point on the structure, including Antennas and subsequent alterations. Equipment buildings, cabinets, and accessory structures shall not exceed fifteen (15) feet in height.
- (2) In the ROW. The maximum total height of any Tower-Based WCF located in the ROW, shall not exceed forty (40) feet, as measured vertically from the ground level, to the highest point on the structure, including Antennas and subsequent alterations. The Township may allow Tower-Based WCFs located in the ROW at a height greater than forty (40) feet, provided the Applicant submits evidence showing, to the

satisfaction of the Township, that the proposed Tower-Based WCF is the least intrusive means available to infill a gap in coverage or capacity

D. General Requirements.

- (1) Standard of Care. All Tower-Based WCFs shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors.
- (2) Notice. Upon submission of an application for a Tower-Based WCF, the Applicant shall mail notice thereof to each of the owners of property lying within three hundred (300) feet of the boundary lines of the lot for which the application has been filed. Notice shall be served upon the owner by first class mail at the last known address of the property owner according to county records. If service cannot be made upon the owner or occupant, then such property shall be posted by placing the notice on a conspicuous place on the dwelling house, if any, on the property. Such notices shall be supplied by the Zoning Officer, as well as a list of the person or persons to be served, and it shall be the obligation of the applicant to see that such service is made at the Applicant's expense and proper return of such service made to the Township.
- (3) Collocation and Siting. An application for a new Tower-Based WCF shall not be approved, unless the Zoning Hearing Board finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. The Applicant shall demonstrate that it contacted the owners of structures, buildings, and towers within a one quarter (1/4) of a mile radius of the proposed site, sought permission to install an Antenna on those structures, buildings and towers, and was denied for one of the following reasons:
 - a) The proposed Antenna and related equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost;
 - b) The proposed Antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower, and the interference cannot be prevented at a reasonable cost;
 - c) Such existing buildings, structures, or towers do not have adequate location, space, access or height, to accommodate the proposed equipment or to allow it to perform its intended function;
 - d) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

- (4) Gap in Coverage or Capacity. An applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage or capacity exists with respect to its provision of service 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 or capacity. The existence or non-existence of a gap in coverage or capacity shall be a factor in the Township's decision to grant or deny an application for Tower-Based WCFs.
- (5) Additional Antennas. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Township with a written commitment that it will allow other service providers to collocate Antennas on its Tower-Based WCF, where technologically and economically feasible. The owner of a Tower-Based WCF shall not install any additional Antennas without obtaining prior written approval from the Township.
- (6) Related Equipment. Any telecommunication equipment building, or any other structure associated with a Tower-Based WCF shall meet the height and setback requirements for principal buildings in the zoning District in which the building is located. When a zoning District contains more than one set of setback requirements, the largest setback requirement shall apply.
- (7) Signs. All Tower-Based WCFs shall contain a sign in a readily visible location, identifying the name and phone number of a party to contact in the event of an Emergency. Absent any controlling FAA or FCC regulations, no additional signage shall be permitted.
- (8) Lighting. No Tower-Based WCF shall be artificially lighted, except when required by the FAA. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- (9) Appearance. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color, to harmonize with the surroundings. Any graffiti on the Tower-Based WCF or on any accessory equipment or structures shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
- (10) Maintenance. All Tower-Based WCFs shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property. The following maintenance requirements shall apply:
 - a) All Tower-Based WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

- b) Such maintenance shall be performed to ensure the upkeep of the facility, in order to promote the safety and security of the Township's residents.
 - c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (11) Discontinuation, Abandonment, and Removal. In the event that use of a Tower-Based WCF is planned 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. Unused or abandoned WCFs or portions thereof, shall be removed as follows:
- a) All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site, unless an extension of time is approved by the Township.
 - b) If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township, and the cost of removal assessed against the owner of the WCF.
 - c) Any unused portions of Tower-Based WCFs, including Antennas, shall be removed within six (6) months of the time of cessation of operations. The Township must approve all replacements of portions of a previously removed Tower-Based WCF.
- (12) 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.
- (13) Insurance.
- a) Each person that owns or operates a Tower-Based WCF greater than forty (40) feet in height, shall provide the Township 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.
 - b) Each person that owns or operates a Tower-Based WCF forty (40) feet or less in height, shall provide the Township with a certificate of insurance, evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence, and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Tower-Based WCF.
- (14) Indemnification. Each person that owns or operates a Tower-Based 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 Tower-Based WCF. Each person that owns or operates a Tower-Based 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 Tower-Based 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.

- (15) Plans and Drawings. All plans and drawings for a Tower-Based WCF, shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (16) 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 Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Article. The Applicant and/or owner of the Tower-Based 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.
- (17) 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 Tower-Based WCF, as well as related inspection, monitoring and related costs.
- (18) Vehicular Access.
 - a) An access driveway and one off-street parking space shall be provided to ensure adequate Emergency and service access, to all Tower-Based WCFs located outside of the ROW.
 - b) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
 - c) Where possible, access driveway construction shall at all times minimize ground disturbance, and the cutting of vegetation.
 - d) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.

- e) Applicants shall present documentation to the Township, that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
 - f) Any required access easement shall be a minimum of twenty (20) feet in width, and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least ten (10) feet throughout its entire length.
 - g) Vehicular access to all Tower-Based WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.
- (19) Right-of-Way Permit. Applicants seeking to install Tower-Based WCFs and/or Related Equipment in the ROW, must obtain a ROW permit, and submit an executed ROW Agreement to the Township.
- (20) Compensation for ROW Use. In addition to permit fees as described above, every Tower-Based WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation 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 Tower-Based WCF shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW management fee for Tower-Based WCFs shall be determined by the Township and authorized by resolution of Township Board of Commissioners and shall be based on the Township's actual ROW management costs as applied to such Tower-Based WCF.

E. Development Regulations.

- (1) Sole Use on a Lot. A Tower-Based WCF shall not be permitted as a sole use on a lot.
- (2) 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:
- a) The existing use on the property may be any permitted use in the applicable District and need not be affiliated with the communications facility.
 - b) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable District and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting, if the proposed WCF is greater than forty (40) feet in height.

- c) Minimum Setbacks. The Tower-Based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no Tower-Based WCF shall be located within five hundred (500) feet of a lot in residential use, or a residential district boundary.

F. Design Regulations.

- (1) The Tower-Based WCF shall employ Stealth Technology and be treated to match the supporting structure, in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant, shall be subject to the approval of the Township.
- (2) Aesthetic, or Land Use Impact. All Tower-Based WCFs shall be aesthetically and architecturally compatible with the surrounding environment and the characteristics of the applicable zoning District.
- (3) To the extent permissible by law, any height extensions to an existing Tower-Based WCF, shall require prior approval of the Township.
- (4) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennas, and comparable Antennas for future users.
- (5) 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) Soil Report. The WCF Applicant shall submit a soil report to the Township prior to construction, complying with the standards of geotechnical investigations (ANSI/EIA-222-G, as amended), to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for any guy wires.
- (6) Fence/Screen.
 - a) Security Fence. A security fence having a minimum height of six (6) feet, shall completely surround any Tower-Based WCF, as well as guy wires, or any building housing WCF equipment.
 - b) Screening. A screening Buffer per the Township Subdivision and Land Development Ordinance §22-507.3.F shall be located along the perimeter of the security fence.
 - c) Landscaping. Landscaping shall be installed to screen and buffer the tower, and any ground level features, such as an equipment building, from adjacent properties. The landscaping shall comply with the landscaping and buffering

requirements of the Township's Subdivision and Land Development Ordinance, and shall preserve existing vegetation around the WCF, to the greatest extent possible. The WCF Applicant shall submit a plan prepared by a landscape architect, depicting the landscaping proposed to screen and buffer the WCF, for review and approval by the Township Planning Commission.

(7) Accessory Equipment.

- a) Ground-mounted equipment associated with, or connected to, a Tower-Based WCF, shall be screened from public view, using stealth technologies as described above. In the event the WCF Applicant demonstrates that the equipment cannot be screened from public view, using stealth technologies described above, the WCF Applicant shall locate the equipment underground in compliance with all applicable provisions found within the Township Code, or state or federal law, and to the satisfaction of the Township Engineer.
- b) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning District.

G. Timing of Approval. Within thirty (30) calendar days of the date than an application for a new wireless support structure or for other than a modification or collocation subject to the WBCA, is filed with the Township, the Township shall notify the Applicant in writing, of any information that may be required to complete such application. Within 150 calendar days of receipt of a complete application, the Township or Township Zoning Hearing Board shall make its final decision regarding whether to approve or deny the application, and shall advise the Applicant in writing, of such decision. If additional information was requested by the Township to complete an application, the time required by the Applicant to provide the application shall not be counted toward the Township's 150-day review period.

SECTION II. REPEALER

All ordinances or resolutions or parts thereof inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION III. SEVERABILITY

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, West Norriton Township Board of Commissioners hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION IV. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its approval as required by the law.

ORDAINED AND ENACTED, by the Board of Commissioners of West Norriton Township, Montgomery County, Pennsylvania, this _____ day of _____, 2018

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS**

Jason Bobst, Township Manager

[INSERT NAME], President

**WEST NORRITON
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF WEST NORRITON TOWNSHIP TO ADD UNDER CHAPTER 10, TITLED “HEALTH AND SAFETY” A NEW PART 8 TITLED “FIREWORKS” REGULATING THE USE OF FIREWORKS WITHIN THE TOWNSHIP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, West Norriton Township, Montgomery County, Pennsylvania (hereinafter “the Township”) is a Township organized and existing under the laws of the Commonwealth of Pennsylvania;

WHEREAS, the Pennsylvania Fireworks Law, Act 43 of 2017, took effect on October 30, 2017; and

WHEREAS, the Fireworks Act broadens the category of Consumer Fireworks that can legally be sold in Pennsylvania;

WHEREAS, the Board of Commissioners of West Norriton Township has determined that the use of consumer fireworks in an urban setting provides safety and health hazards if the terms of the Pennsylvania Fireworks Law are not specifically complied with;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the West Norriton Township Board of Commissioners, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION 1: A new Part 8 titled “Fireworks” under Chapter 10 titled “Health and Safety” is hereby added to the Code of West Norriton Township and shall be entitled, numbered and read as follows:

PART 8 – FIREWORKS

§10-801. AUTHORITY AND INTENT

This Chapter is adopted pursuant to the authority granted under Pennsylvania’s fireworks regulations and laws as adopted and codified by the Pennsylvania legislature at 72 P.S. §9401-9416. This Chapter is adopted with the intent to comply with such state fireworks laws, properly regulate fireworks use within the Township, and to protect the health, safety and welfare of Township citizens.

§10-802. DEFINITIONS

The following words and phrases when used in this Chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

APA 87-1 – The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.

Consumer Fireworks: Any combustible or explosive composition or any substance or combination of substances intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to consumer practices) or any successor regulation and which complies with the provisions for “Consumer Fireworks” as defined in the American Pyrotechnics Association (APA) Standard 87-1, including but not limited to Sections *3.1 and *3.5, or any successor standard. The term does not include devices such as “ground and handheld sparkling devices” as defined in APA Standard 87-1, Section *3.1.1, “novelties” as defined in APA Standard 87-1, Section *3.2, or “toy caps” as defined in APA Standard 87-1, Section *3.3.

Display Fireworks: Defined as more fully set forth in 27 CFR 555.11 (Meaning of terms), which is incorporated herein by reference which meet the types of display fireworks devices set forth in the APA Standard 87-1, Section *4.1 which comply with requirements for display fireworks set forth in APA Standard 87-1.

Fireworks: Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of 1.4 G fireworks or 1.3 G fireworks as set forth in the 2003 International Fire Code including, but not limited to, those compositions or devices as defined in APA Standard 87-1.

NFPA 1124: The National Fire Protection Association Standard 1124, *Code for the Manufacture, Transportation and storage of Fireworks and Pyrotechnic Articles*, 2006 edition, or any subsequent edition.

Novelties: Articles of trade having amusement value and whose appeal is often transitory, and which is limited to those items for sale described in American Pyrotechnics Association (APA) Standard 87-1, Section *3.2.

Occupied Structure: A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

Temporary Structure: A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or

less and is dedicated to the storage and sale of Consumer Fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell Consumer Fireworks under this Chapter.

§10-802. USE SALE AND STORAGE OF CONSUMER FIREWORKS

1. Conditions. A person who is at least 18 years of age and meets the requirements of this Chapter may purchase, possess and use Consumer Fireworks.
2. Prohibitions. A person may not intentionally ignite or discharge:
 - A. Consumer Fireworks on public or private property without the express permission of the owner.
 - B. Consumer Fireworks or sparkling devices within, or throw Consumer Fireworks or sparkling devices from, a motor vehicle or building.
 - C. Consumer Fireworks or sparkling devices into or at a motor vehicle or building or at another person.
 - D. Consumer Fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.
 - E. Consumer Fireworks within 150 feet of any Occupied Structure.
 - F. Consumer Fireworks within 100 feet of any combustible material.
 - G. Consumer Fireworks such that the sparks or any portion of the fireworks will land upon the property of another without the owner's express permission.
 - H. Consumer Fireworks two hours after dusk on the date the person intends to ignite the Consumer Fireworks, dusk being defined as the time as reported for West Norriton Township by the National Weather Service.
3. It is hereby ordained and enacted that no permission is granted by the Township to any person to ignite or discharge consumer fireworks on the streets of the Township of West Norriton, the sidewalks of the Township of West Norriton or any property owned by the Township of West Norriton, including, without limitation, all of the Township's parks and public buildings unless otherwise authorized by a public vote of the Board of Commissioners.
4. Sale and Storage of Consumer Fireworks: The sale and storage of Consumer Fireworks is licensed and regulated by the Pennsylvania Department of Agriculture. Any persons who intends to sell or store Consumer Fireworks within the Township shall provide proof of such licensure prior to such use being conducted within the Township, in addition to compliance with all other applicable Township ordinances, regulations or codes.

§10-803. CONSUMER FIREWORKS – TEMPORARY STRUCTURES

1. Conditions. If a person is licensed by the Pennsylvania Department of Agriculture to store and sell Consumer Fireworks within a Temporary Structure as defined herein, such use shall be permitted within the Township provided all other applicable Township ordinances and regulations are met.
2. The person authorized to store and sell Consumer Fireworks within such Temporary Structure shall comply with the regulations of the Pennsylvania Department of Agriculture, and shall provide verification of such compliance prior to be permitted to conduct such use within the Township.

§10-804. DISPLAY FIREWORKS – PERMITS AND USE PROVISIONS

1. No Display Fireworks shall be ignited within 300 feet of a facility selling or dispensing gasoline, propane, or other flammable products.
2. Permits are required to be issued by the Township prior to the use of Display Fireworks. Application for permits shall be made in writing at least 30 days in advance of the planned date of the use of Display Fireworks together with the permit fee. Permit fees shall be as established by resolution of the Board of Commissioners.
3. Permits for Display Fireworks may only be issued to persons age 21 or older.
4. Each Display Firework shall be:
 - A. Handled by a competent operator with the proper authorization to handle, operate or store Display Fireworks;
 - B. Inspected by the Police Chief, Fire Chief, Fire Marshal or other appropriate officer, and after proper inspection, deemed to not be hazardous to property or endanger any person prior to the display occurring; and
 - C. After permission is granted under this section, possession and use of Display Fireworks shall be lawful for that purpose only.
5. License Requirements. Any business entity which performs, provides or supervises Display Fireworks for profit shall provide to the Township proof of registration with the Pennsylvania Attorney General as part of the permitting process.
6. Display Fireworks may be possessed and used by a person (aged 21 or older) holding a permit from the Township at the display covered by the permit, or when used as authorized by a permit for any of the following additional activities:
 - A. For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
 - B. By railroads or other transportation agencies for signal purposes or illumination.

- C. In quarrying or for blasting or other industrial use.
- D. In the sale or use of blank cartridges for a public show or theater.
- E. For signal or ceremonial purposes in athletics or sports.
- F. By military organizations or organizations composed of veterans of the armed forces of the United States.

§10-805. DISPLAY FIREWORKS – BONDING AND EXTENTION REQUESTS

1. Bond. The Township shall require a bond deemed adequate by the Board from the permittee in a sum not less than \$50,000 conditioned on the payment of all damages which may be caused to a person or property by reason of the Display Fireworks and arising from an act of the permittee or an agent, employee or subcontractor of the permittee. The bonding requirement may be deemed unnecessary or reduced by the Board of Commissioners for the additional activities listed under §10-804(6) above.
2. Extension of Permit.
 - A. Authorization. If, because of unfavorable weather, the Display Fireworks for which a permit has been granted does not occur at the time authorized by the permit, the person to whom the permit was issued may within 24 hours apply, in writing, for a request for extension to the Township. The requested continuance of the permit shall not be later than one week after the date originally designated in the permit.
 - B. Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of the display occurring at the extended date and in the same manner and to the same extent as if the display had occurred at the date originally designated in the permit.

§10-806. PERMITS GRANTED FOR AGRICULTURAL PURPOSES

1. Authorization. The Township may grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
2. Duration of permit. A permit under this section shall remain in effect for the calendar year in which it was issued.
3. Conditions. After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

§10-807. AUTHORITY AND CONFISCATION OF MATERIALS

1. Any Pennsylvania State Police officer or Township police officer shall take, remove or cause to be removed, at the expense of the owner, all stocks of Consumer Fireworks, Display Fireworks or combustibles offered or exposed for sale, stored or held in violation of this Chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.
2. Any Pennsylvania State Police officer, Township police officer or Township Fire Chief is authorized to cease all fireworks activity when there is a determination that there is imminent or immediate danger to any person(s), property, buildings, structures or premises; and said police officer or Fire Chief may take any steps necessary, within the reasonable performance of their duties, to extinguish, mitigate and/or control any fireworks in order to preserve and protect the life, health, welfare or safety of any person(s) and to preserve and protect property, building structures or premises.

§10-808. PENALITIES

1. A person using Consumer Fireworks in violation of the provisions of this Chapter commits a summary offense and, upon conviction, shall be punished by a fine. Each section or provision of this Part that is violated shall constitute a separate offense, each of which shall be punishable by a separate fine imposed by the District Justice of not less than \$100 and not more than \$1,000.
2. A person selling Consumer Fireworks in violation of the provisions of this Chapter commits a misdemeanor of the second degree.
3. A person selling Display Fireworks in violation of the provisions of this act commits a felony of the third degree.
4. A person selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the United States Department of Transportation, including, but not limited to, those devices commonly referred to as "M-80," "M-100," "blockbuster," "cherry bomb" or "quarter or half stick" explosive devices, in violation of the provisions of this Chapter commits a felony of the third degree.
5. All prosecutions related to this Part shall be the responsibility of the Township police or, if warranted, the Pennsylvania State Police.

SECTION 2: SEVERABILITY.

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, West Norriton Township Board of Commissioners hereby declares its intent that the Ordinance shall have been enacted

without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION 3: REPEALER.

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED, by the Board of Commissioners of West Norriton Township, Montgomery County, Pennsylvania, this _____ day of _____, 2018

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS:**

Jason Bobst, Township Manager

By: _____
, President

**WEST NORRITON
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN OF WEST NORRITON TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA AMENDING THE WEST NORRITON TOWNSHIP ZONING ORDINANCE TO PROVIDE DEFINITIONS AND REGULATIONS FOR THE SALE AND STORAGE OF CONSUMER FIREWORKS AND PERMITTING SUCH USES IN THE I INDUSTRIAL DISTRICT BY CONDITONAL USE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, West Norriton Township, Montgomery County, Pennsylvania (hereinafter “the Township”) is a Township organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Township has enacted a zoning ordinance pursuant to the Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968 as amended; and

WHEREAS, the Pennsylvania Fireworks Law, Act 43 of 2017, took effect on October 30, 2017; and

WHEREAS, the Pennsylvania Fireworks Law broadens the location and type of Consumer Fireworks that can legally be sold in Pennsylvania; and

WHEREAS, the Board of Commissioners seeks to regulate through zoning, the sale and storage of consumer fireworks within the Township, while simultaneously advancing the substantial interest of public health, safety, and welfare; and

WHEREAS, the Township has recognized the need to amend the zoning ordinance as reflected herein;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the West Norriton Township Board of Commissioners, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I: Chapter 27 titled “Zoning,” Part 20 titled “Definitions, Remedies, Penalties” of the Code of Ordinances of the Township of West Norriton is amended to add the following definitions in alphabetical order:

Consumer Fireworks: Any combustible or explosive composition or any substance or combination of substances intended to produce

visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to consumer practices) or any successor regulation and which complies with the provisions for “Consumer Fireworks” as defined in the American Pyrotechnics Association (APA) Standard 87-1, including but not limited to Sections *3.1 and *3.5, or any successor standard. The term does not include devices such as “ground and handheld sparkling devices” as defined in APA Standard 87-1, Section *3.1.1, “novelties” as defined in APA Standard 87-1, Section *3.2, or “toy caps” as defined in APA Standard 87-1, Section *3.3.

Display Fireworks: Defined as more fully set forth in 27 CFR 555.11 (Meaning of terms), which is incorporated herein by reference which meet the types of display fireworks devices set forth in the APA Standard 87-1, Section *4.1 which comply with requirements for display fireworks set forth in APA Standard 87-1.

Fireworks: Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of 1.4 G fireworks or 1.3 G fireworks as set forth in the 2003 International Fire Code including, but not limited to, those compositions or devices as defined in APA Standard 87-1.

NFPA 1124: The National Fire Protection Association Standard 1124, *Code for the Manufacture, Transportation and storage of Fireworks and Pyrotechnic Articles*, 2006 edition, or any subsequent edition.

Novelties: Articles of trade having amusement value and whose appeal is often transitory, and which is limited to those items for sale described in American Pyrotechnics Association (APA) Standard 87-1, Section *3.2.

Temporary Structure: A structure other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of Consumer Fireworks and related items, the term includes temporary retail sales stands, tents, canopies, and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell Consumer Fireworks under this Article.

All inconsistent definitions in this Section are Repealed.

SECTION II. Section 27-1101(G) of the Zoning of the Code of Ordinances of West Norriton Township shall be amended to include “Sale of Consumer Fireworks” as an additional land use as follows:

- (2) Sales of Consumer Fireworks from either a permanent facility or Temporary Structure subject to compliance with the general provisions regarding Conditional Uses contained in Section 27-1101 and Section 27-1102 of the Code of Ordinances as well as all of the following specific regulations with respect to such use:
 - (a) The facility from which the fireworks are sold whether permanent or temporary shall comply with the LC&I, and I District’s dimensional, area, and parking regulations, including but not limited to, setbacks and buffers.
 - (b) Such use shall not be located within 1,500 feet of any premises selling alcoholic liquors, alcohol, malt or brewed beverages for consumption on or off premises.
 - (c) Such use shall not be located within 1,500 feet of any local or state park, school or child daycare facility, recreational establishment, house of worship, dwelling, hospital, group home or nursing home.
 - (d) Any structure containing quantities of Consumer Fireworks as defined herein exceeding 50 pounds shall be no closer than 150 feet to any building, state highway, railway, local street or alley, waterway, or utility right of way including, but not limited to, natural gas line.
 - (e) Such use shall not be located within 1,500 feet of any premises selling firearms.
 - (f) All land development plans for construction, use or renovation of an existing building for the purposes of selling fireworks shall be reviewed by the code enforcement officer for compliance with all required fire safety codes including, but not limited to, the International Fire Code, and his comments and/or report shall be copied to the officer Municipality-designated fire company.
 - (g) Sale of fireworks shall be subject to compliance with all of the provisions of Pennsylvania Act 43 of 2017 pertaining to the sale thereof. Hours of operation shall be confined from

9:00 A.M. to 7:00 P.M. Security and site management shall be provided 24 hours per day.

- (h) All sales of Consumer Fireworks shall be conducted only within a facility approved by the Pennsylvania Department of Agriculture pursuant to the Pennsylvania Fireworks Law.
- (i) All sales of Consumer Fireworks as defined herein shall be conducted only from a facility exclusively dedicated to the storage and sale of fireworks.
- (j) If the facility in which the Sales of Consumer Fireworks are conducted is a Temporary Structure, it shall comply with the following regulations, in addition to the other regulations set forth in subparagraphs (a)-(i):
 - (1) The Temporary Structure is located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.
 - (2) An evacuation plan is posted in a conspicuous location for a Temporary Structure in accordance with NFPA 1124.
 - (3) The outdoor storage unit, if any, is separated from the wholesale or retail sales area to which a purchaser may be admitted by appropriately rated fire separation.
 - (4) The Temporary Structure complies with NFPA 1124.
 - (5) The Temporary Structure is located one of the following distances from a permanent facility licensed to sell Consumer Fireworks under the Act of May 15, 1939 (P.L. 134, No. 65), referred to as the Fireworks Law, at the time of the Effective Date of this Article: Prior to January 1, 2023, at least five miles; or Beginning January 1, 2023, at least two miles.
 - (6) The Temporary Structure does not exceed 2,500 square feet.

(7) The Temporary Structure is secured at all times during which Consumer Fireworks are displayed within the structure.

(8) The Temporary Structure has a minimum of \$2,000,000 in public and product liability insurance.

(9) The sales period is limited to June 15 through July 8 and December 21 through January 2 of each year.

(10) Consumer Fireworks not on display for retail sale are stored in an outdoor storage unit.

(11) Limitations – The sale of Consumer Fireworks from the Temporary Structure is limited to the following: Helicopter, aerial spinner (APA 87-, 3.1.2.3); Roman candle (APA 87-1, 3.1.2.4); and Mine and shell devices not exceeding 500 grams.

(12) Storage of Consumer Fireworks shall be permitted only as an accessory use to the sale of Consumer Fireworks on premises.

SECTION III. REPEALER.

All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION IV. REVISIONS.

The West Norriton Township Board of Commissioners does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

SECTION V. SEVERABILITY.

The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the West Norriton Zoning Ordinance.

SECTION VI. EFFECTIVE DATE.

This amendment shall become effective five (5) days after date of adoption.

ORDAINED AND ENACTED, by the Board of Commissioners of West Norriton Township, Montgomery County, Pennsylvania, this _____ day of _____, 2018

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS:**

Jason Bobst, Township Manager

By: _____
, President