

**SOUTH BEAVER TOWNSHIP
BEAVER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 84

ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER, BEAVER COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 55, AS AMENDED BY ORDINANCE NOS. 62, 67, AND 75 KNOWN AS THE “ZONING ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER” TO REFLECT AMENDMENTS TO ARTICLE IV, SECTION 4.10, “COMMUNICATION TOWER/CELL SITES”, AND ARTICLE II, SECTION 2.2, “WORDS, TERMS AND DEFINITIONS”, BOTH ADDING DEFINITIONS AND AMENDING DEFINITIONS.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of South Beaver, a Township of the Second Class under the laws of the Commonwealth of Pennsylvania, and it is hereby ordained and enacted by virtue of the authority of the same as follows:

SECTION I. The South Beaver Township Board of Supervisors have determined that Ordinance No. 55, known as the “Zoning Ordinance of the Township of South Beaver”, specifically Sections 2.2 “Words, Terms and Definitions”, and Section 4.10 “Communication Tower/Cell Sites, are in need of revision, amendment and additions.

SECTION II. Article XII, Section 4.10, is hereby amended as follows:

Section 4.10. COMMUNICATION TOWER/CELL SITES

The following regulations shall apply to communication antennas, except those operated by a federally licensed amateur radio status operator.

4.10.1. The applicant proposing a communication tower, or addition to communication tower whether the applicant’s tower or the tower of another entity/company, is required to demonstrate using technological evidence that the antenna or antennae can and must be placed

where same is proposed in order to satisfy its function within the grid system of an operating company's wireless communication grid system duly licensed to be operating by the Federal Communications Commission (FCC). At a minimum, the operating or proposed operating grid system for a twenty-five (25) mile air radius distance shall be included with such documentation as to the licensed wireless communication company or companies of which antenna or antennae are to be erected on the communication tower.

- A. Communication towers constructed for the sole purpose of supporting communication antennae shall be constructed, and/or existing communication towers created for the sole purpose of supporting communication antennae, shall be constructed so as to be capable to be modified to sufficient strength to support multiple antennae, and shared use of the same among various Federal Communication Commission licensed entities or companies is required.
- B. An applicant seeking shared use of an existing communication tower owned and/or operated by another person, company or entity, is conditioned upon the applicant being required to pay if so demanded by the owner of such communication tower, a reasonable fee and proper costs of adapting existing tower structures to the proposed additional use, including, but not limited to, a reasonable user fees and costs of and for reinforcing an existing tower structure or support, adding of "T" bars or other accessories for holding of antennae, for the preventing of RF or other signal interference between or among antennae mounted thereon, and/or any other changes reasonably required and necessary to accommodate shared use. The Board of Supervisors may require any fee dispute to be resolved by and between the parties if the Board of Supervisors deem that the owner/operator of the cell site/communication tower is using monopolistic tactics to charge excessive fees for co-use of a communication tower, shall be resolved by and between the owner/operator of the cell site/communication tower and the applicant by litigations or arbitration proceedings.

4.10.2. Cell sites developed for communication tower or towers are generally prohibited from being located within two (2) air miles of each other. If an applicant is proposing to create a new cell site or build a new communication tower within a two (2) air mile radius of an existing

communication tower, whether the communication tower is a structure created solely for the support of communication antennae or a part of an existing structure adapted to have communication antennae mounted thereon, the developer is required to demonstrate that it contacted the owners of any such communication tower and/or the owner of any other tall structures within the two (2) mile air radius of the site proposed, to arrange and ask for permission to install an antenna or antennae on such existing structure, and to modify same as necessary to accommodate additional antenna or antennae, but is precluded from doing so due to physical limitations of the existing tower structure and/or is or was denied for reasons other than economic ones so as to preclude use of said existing cell site or structure. Placement of a new cell site for erection of a communication tower for the sole purpose of supporting communication antennae within a two (2) air mile radius of an existing communication tower erected for the sole purpose of supporting communication antennae, shall be permitted only as a conditional use, subject to any necessary or reasonable conditions imposed in conjunction with approval of same as a conditional use. The Township of South Beaver may deny an application to develop new cell site for construction of a new tower as a conditional use if the applicant fails to prove adding of the applicant's proposed antenna or antennae to an existing communication tower is physically, engineering and scientifically impossible, and if the applicant does not evidence having made a good faith effort to mount a proposed antenna or antennae on an existing structure whether or not such existing structure is a communication tower.

4.10.3. The applicant shall demonstrate that the proposed communication antennae is or are being mounted at the minimum height required to function satisfactorily. No antennae will

be approved for installation/mounting that exceeds the minimum height required to function satisfactorily, and/or is in violation of the height limitation applicable to the existence of the Beaver County Airport. The maximum communication antennae height from ground surface is not to exceed two hundred (200) feet except by conditional use application and approval thereof as a conditional use, and may only be granted if the applicant can demonstrate that it is an absolute necessity to exceed this two hundred (200) foot height limitation for the operation of the Federal Communication Commission licensed wireless communication service antennae, as to which the antenna or antennae are, or are to be, a part of a wireless service grid system operating or to be operated within the twenty-five (25) mile radius of the subject cell site.

4.10.4. A site development plan shall be required for all cell sites, whether for new construction or addition to existing structure, showing the antenna support structure proposed or existing location as well as any buildings, driveways and/or access, parking areas, fencing, landscaping plan, building setbacks relative to front, side and rear yard areas applicable within the Zoning District, along with contour lines of the cell site at two (2) foot intervals where the average slope is ten percent (10%) or less, and at five (5) foot intervals where the slope exceeds ten percent (10%), together with all other requirements set forth in Article IV of the South Beaver Township Subdivision and Land Development Ordinance. Review, approval and/or disapproval of the site development plan shall be processed per this Ordinance and any and all other land development plans shall be processed per this Ordinance and any and all other land development Ordinances of the Township. Any other ordinances of South Beaver Township applicable to the proposed development, even if not involving per se as land development regulations, shall be

adhered to by the applicant, including, but not limited to, the Driveway Permit Ordinance of the Township.

4.10.5. Fencing or other proper wall enclosure is required and shall be installed around a tower support structure, apparatus and other equipment to preclude access to same by the general public or to otherwise constitute an attractive climbing site by trespassers. The fence or wall enclosure shall have a minimum height of eight (8) feet and maximum height of twelve (12) feet. Any guy wires associated with or used in the support and providing stability to a communication tower shall be anchored within the enclosure area.

4.10.6. No cell site may be located within a distance that is equal to one hundred percent (100%) of the vertical height of the communication tower and/or top of the communication antennae installed thereon as measured from the ground level to any existing residential structure. In the event the particular style or type of communication tower and apparatus thereof can permit ice sheeting thereon during inclement weather which ice sheeting may be blown or carried by winds per varying weather conditions, additional isolation distance is required to preclude harm or damage to structures or persons. In the event the parcel being proposed to be developed for a cell site is not sufficient size and/or configuration to maintain the aforesaid distance requirement from the lands outside the cell site's parcel of land, the developer of a cell site shall procure and produce the written consent and approval of the owners of all adjoining land, which written consent of the adjoining landowner shall contain a covenant that no residential structure shall be erected within the affected area of this distance requirement relative to the height of a communication tower/top of communication antenna to a residential structure.

4.10.7. To the extent permitted by law, the following maintenance requirements shall apply to all communications antennas.

- A. **Standard of Care.** All Communication Antennas 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 Standard Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any Communication Antenna shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- B. **Wind.** All Communication Antenna structures shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222), as amended.
- C. **Maintenance.** To the extent permitted by law, the following maintenance requirements shall apply:
 - (1) The Communication Antenna 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.

4.10.8. In addition to the provisions listed above, the following regulations shall apply to Communication Antennas located in the public rights-of-way:

- A. **Co-location.** Communication Antennas in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. If co-location is not technologically feasible, the Applicant, with the Township's approval, shall locate its Communication Antennas on existing poles or freestanding structures that do not already act as Wireless Support Structures.

B. Design Requirements:

- (1) Communication Antenna installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and utility poles, shall consist of equipment components that are no more than six (5) 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) Communication Antennas and Related Equipment shall be treated by the Communication Antenna owner or Applicant to match the Wireless Support Structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

C. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communication Antennas 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.

D. Equipment Location. Communication Antennas and Related 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 Related Equipment shall be located between the sidewalk and the curb. For reasons of safety and aesthetics, such equipment shall neither protrude onto the curb, nor obstruct the sidewalk.
- (2) Ground-mounted Related 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.
- (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
- (4) Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the Township.

- (5) Any proposed underground vault related to Communication Antennas shall be reviewed and approved by the Township.

4.10.9. The following regulations shall apply to all Communication Towers, excluding any Communication Tower that is owned and operated by a federally licensed amateur radio status operator.

- A. **Standard of Care.** Any Communication Towers shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Communication Tower shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- B. **Co-location and siting.** An application for a new Communication Tower shall demonstrate that the proposed Communication Tower cannot be accommodated on an existing or approved structure or building, or land owned and maintained by South Beaver Township. The Township Board of Supervisors may deny an application to construct a new Communication Tower if the Applicant has not made a good faith effort to mount the Communication Antenna on an existing structure. The Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter (1/4) of a mile radius of the site proposed, sought permission to install a Communications Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - (1) 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.
 - (2) 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.
 - (3) 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.

- (4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- C. Wind. Any Communication Tower structures shall be designed to withstand the effects of wind gusts of at least one hundred (100) miles per hour in addition 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/TIA-222), as amended.
- D. Maintenance. The following maintenance requirements shall apply:
 - (1) Any Communication Tower 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 Communication Tower in order to promote the safety and security of the Township's residents, and utilize the best available technology for preventing failures and accidents.
- E. Lighting. No Communication Tower shall be artificially lighted, except as required by law. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Automatic lighting is prohibited and all lighting must be controlled manually by an on-site switch. The Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.
- F. Noise. Communication Towers 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.
- G. Signs. All Communication Towers shall post a sign in a readily visible location identifying the name and telephone number of a party to contact in the event of an emergency. The only other signage permitted on the Communication Tower shall be those required by the FCC, or any other federal or state agency.

4.10.10. The following regulations shall apply to Communication Towers located in the Public Rights-of-Way.

- A. Location and development standards.
- (1) Communication Towers in the ROW shall not exceed thirty-five (35) feet in height and are prohibited in areas in which utilities are located underground.
 - (2) Communication Towers shall not be located in the front facade area of any structure.
 - (3) Communication Towers shall be permitted along certain collector roads and arterial roads throughout the Township, regardless of the underlying zoning district. A list of such permitted roads is kept on file at the Township Zoning Office and is adopted by the Township Board of Supervisors on a semi-annual basis via Resolution.
- B. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Communication Towers 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.
- C. Equipment Location. Communication Towers and Related 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 Related Equipment shall be located between the sidewalk and the curb. For reasons of safety and aesthetics, such equipment shall neither protrude onto the curb, nor obstruct the sidewalk.
 - (2) Ground-mounted Related 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 Board of Supervisors.
 - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township Board of Supervisors.
 - (4) Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner.

- (5) Any underground vaults related to Communication Towers shall be reviewed and approved by the Township Board of Supervisors.

D. Design regulations.

- (1) The Communication Tower shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Applicant shall be subject to the approval of the Township Board of Supervisors.
- (2) Communication Towers in the public ROW shall not exceed thirty-five (35) feet in height.
- (3) To the extent permissible under state and federal law, any height extensions to an existing Communication Tower shall require prior approval of the Township, and shall not increase the overall height of the Communication Towers to more than thirty-five (35) feet.
- (4) Any proposed Communication Tower shall be designed structurally, electrically, and in all respects to accommodate both the Applicant's Communication Antenna and comparable co-located antenna. The maximum number of future users shall be based on the size of the proposed Communication Tower.

- E. Reimbursement for ROW Use. In addition to permit fees as described in this Section, every Communication Tower in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each Communication Tower shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

4.10.11. The developer making application for creation and operation of

a cell site and/or communication tower shall provide certification of:

- A. Being either an entity licensed by the Federal Communications Commission and any and all applicable regulatory agencies of the Federal government and/or of the Commonwealth of Pennsylvania to operate a wireless communication system, or has a contract and lease agreement for a minimum period of one (1) year with an

entity so licensed by the Federal Communications Commission and any all applicable regulatory agencies of the Federal government and/or of the Commonwealth of Pennsylvania to operate a wireless communication system.

- B. The facility being proposed, initially or as an addition or expansion to an existing cell site, meets and shall comply with all present and future technical emission standards set by the Federal Communications Commission. In the event the owner of any communication tower is not licensed by the Federal Communications Commission, the company or entity desiring to place a communication antenna or antennae upon such communication tower owned by a non-licensed company, shall duly sign and execute a certification to be included with the application, that all antennae placed and operated within the subject cell site, meets and shall comply with all present and future technical emission standards set by the Federal Communications Commission.
- C. Each person/entity that owns or operates a communication antenna or tower shall provide the Township with a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the communication antenna.

4.10.12. The developer shall provide detailed information and documentation that the proposed antenna and/or support structure of the antenna, whether an existing structure or a new tower is and shall be in compliance with all regulations and requirements of the Federal Aviation Administration, the Bureau of Aviation of the Commonwealth of Pennsylvania, Building Code provisions, if applicable, and/or any other applicable regulatory agency of the Federal government or the Commonwealth of Pennsylvania, including, but not limited to, the specific type of warning/artificial lighting of the antenna that is required to be installed and maintained so as to warn airplanes, etc., as to the location and heights of the antenna and its supporting structure.

4.10.13. Communication towers, communication antennae and all attributes of a cell site shall at all times be protected and maintained in a safe condition, structurally and otherwise, by the Federal Communications Commission licensed entity or entities operating the communication antenna or antennae within the cell site. If a communication tower or cell site remains unused by

a Federal Communications Commission licensed operator of a communication antenna wireless service for a period of twelve (12) consecutive months for the purpose of a wireless communication services operation, the owner of the land, and/or owner of the communication tower, and/or last licensed operator of same shall dismantle and remove the communication tower and all cell site appurtenances within ninety (90) days following the expiration of said twelve (12) month period. If the owner of the land, the communication tower and/or communication antennae are not the same person, company or entity, provision as to this Section 4.10.13 shall be included in the contract, agreement and/or leases as between parties, and copies of all signed contracts, agreements on file with South Beaver Township.

SECTION III. Article II, Section 2.2, is hereby amended to including the following definitions:

CO-LOCATION: The mounting of one or more WCFs, including antennae, on an existing Communication Tower, or on any structure that already supports at least one Communication Antenna.

STEALTH TECHNOLOGY: Camouflaging methods applied to wireless communications 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 antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

WIRELESS COMMUNICATIONS FACILITY: The antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of

transmitting, receiving, distributing, providing, or accommodating wireless communications services.

WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a Communication Tower or any other support structure that could support the placement or installation of a wireless communication facility if approved by the Township.

SECTION IV. Article II, Section 2.2, is hereby amended to include the following amended definitions:

ANTENNA: Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include an Communication Tower as defined below.

COMMUNICATION ANTENNA: All non-tower Wireless Communications Facilities, including, but not limited to, antennae and Related Equipment attached to the wireless support structure. Communication Antennas shall not include support structures for antennae or any Related Equipment that is mounted to the ground or at ground level.

COMMUNICATION TOWER: Any structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. Distributed antenna system hub facilities are considered to be Communication Towers.

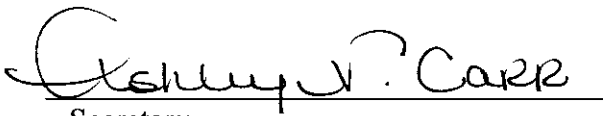
SECTION V. All other provisions of Ordinance No. 55, as amended by Ordinance Nos. 62, 67, and 75, shall be unchanged and shall remain in full force and effect.

SECTION VI. Effective Date: This Ordinance shall take effect immediately upon final passage.

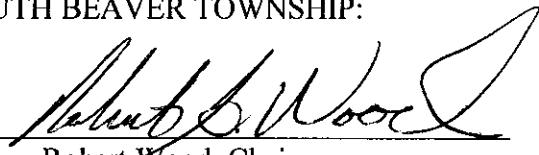
SECTION VII. Any ordinance, or parts of any ordinance, inconsistent herewith are hereby repealed.

PASSED AND ADOPTED by the Board of Supervisors of the Township of South Beaver this 12th day of December, 2016.

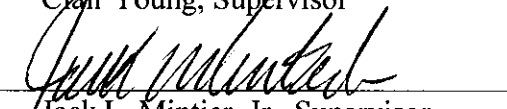
ATTEST:


Secretary

BOARD OF SUPERVISORS OF
SOUTH BEAVER TOWNSHIP:

By: 
Robert Wood, Chairman

By: _____
Clair Young, Supervisor

By: 
Jack L. Mintier, Jr., Supervisor