

**CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2380-19

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF
CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY,
PENNSYLVANIA AMENDING CHAPTER 295 ENTITLED
“ZONING” TO PROVIDE FOR THE INSTALLATION OF NEW
WIRELESS COMMUNICATIONS FACILITIES WITHIN THE
HISTORIC DISTRICTS OF THE TOWNSHIP BY SPECIAL
EXCEPTION AND CERTIFICATE OF APPROPRIATENESS ONLY**

WHEREAS, the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania enacted and ordained a comprehensive zoning code and zoning map amendment in November 2017, the Zoning Code enactment by Ordinance No. 2358-17; and

WHEREAS, the Board of Commissioners seeks to amend Article XVIII entitled “Historical Architectural Review Overlay District” to regulate the installation of new wireless telecommunications facilities in Historical Districts to the fullest extent permitted by law; and

WHEREAS, Section 603 of the Pennsylvania Municipalities Planning Code permits the regulation of the uses of land and the protection and preservation of historic resources, 53 P.S. §10603(b)(1) and (5).

NOW, THEREFORE, the Board of Commissioners of the Township of Cheltenham hereby ordains and enacts as follows:

SECTION I. - Amendment to the Code

Chapter 295 entitled “Cheltenham Township Zoning Ordinance of 2017”, as amended, is hereby further amended to add two (2) new Sections as follows (matter to be omitted indicated by strike-out type, new terms underlined):

ARTICLE XVIII; Historical Architectural Review Overlay District

...

§295-1801 Definitions.

A. For the purposes of this article, the following items shall have the meanings indicated:

...

STRUCTURE

For the purposes of this article, “structure” shall mean: A construction for the purposes of occupancy, use, or ornamentation, having a fixed location on, above, or below the surface of land. Structures include, but are not limited to, buildings, flagpoles, fences, gazebos, pergolas, canopies, freestanding signs, permanent signs, walls, paved parking areas, driveways and Wireless Communications Facilities.

...

§295-1810 Exceptions to Certificate of Appropriateness Procedure.

A.

- (1) A COA is not required for the routine repair, maintenance or replacement in kind of any exterior elements or features of any building or structure, in whole or in part, within an Historical District. “Replacement in Kind” refers to equal in construction characteristics, including material, size, configuration, profile, appearance, texture, color and method of installation with conforming lines, levels and planes.
- (2) A COA is also not required for alteration, collocation or replacement of antennas, accessory equipment or wireless telecommunications facilities of an existing Wireless Communications Facility including the addition of new equipment to an existing Wireless Communications Facility.

...

§295-1817 Definitions.

The definitions set forth in Article XXXII: Wireless Supports and Communications Facilities of this Chapter are hereby incorporated by reference in this Article as though set forth at length herein.

§295-1818 Wireless Communications Facilities in Historic Districts.

Notwithstanding any provision or term set forth in this Article to the contrary, and to the fullest extent permitted by the Wireless Broadband Collocation Act of 2012, 53 P.S. §11702.1, as amended, and any other legislative enactment subsequent to this Ordinance, new Wireless Communications Facilities are prohibited within the Historic Districts of the Township, as established under this Chapter, except: (1) by special exception granted by the Zoning Hearing Board and (2) by requirements for a Certificate of Appropriateness established under this Chapter. The criteria for granting a special exception are those set forth in Code Section 295-3209 which are incorporated herein by reference as though set forth at length herein and the additional standards and criteria set forth in Code Sections 295-3210 through 295-3215 for Tower-Based Wireless Supports, for Tower-Based Wireless Supports Located Outside of the Right-of-Way, for Tower-Based Wireless Supports in the Right-of-Way, for Non-Tower Wireless Supports, for Non-Tower

Wireless Supports Located Outside of Rights-of-Way and for Non-Tower Wireless Supports in the Right-of-Way, as applicable, in Article XXXII: Wireless Supports and Communications Facility of this Chapter as well as the following additional standards and criteria:

A. The Zoning Hearing Board shall only grant a special exception upon proof by the applicant, by a preponderance of the evidence, that a substantial gap in tele-communications coverage for all telecommunications providers would exist but for the granting of the special exception as well as proof, by a preponderance of the evidence, that lesser, visually intrusive facilities, for example, by co-location, stealth technology or other alternatives, are not feasible.

SECTION II. - Disclaimer

Nothing in this Ordinance shall limit, in any manner whatsoever, the Township's right to enforce any ordinance or law of Cheltenham Township, Montgomery County or Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

SECTION III. - Severability

The provisions of this Ordinance are severable, and if any Section, sentence, clause or phrase shall be held by a court of competent jurisdiction to be illegal, invalid, or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby.

SECTION IV. - Repealer

Any ordinance or part of any Ordinance conflicting with the provisions of this Ordinance shall be deemed and the same are hereby repealed to the extent of such conflict.

SECTION V. - Failure to Enforce Not a Waiver

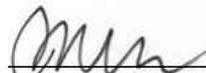
The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION VI. - Effective Date

This Ordinance shall take effect and be in force as soon after adoption as is permitted by law.

DULY ORDAINED AND ENACTED this 23rd day of **January, 2019**, by the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

ATTEST:



Bryan T. Havir
Township Manager and Secretary

**TOWNSHIP OF CHELTENHAM
BOARD OF COMMISSIONERS**

By: 
Daniel B. Norris, President