

ORDINANCE NO. 21-01

**AN ORDINANCE OF THE TOWNSHIP OF BERWICK, ADAMS COUNTY,
PENNSYLVANIA, AMENDING AND SUPPLEMENTING THE BERWICK TOWNSHIP
ZONING ORDINANCE,**

BE IT ENACTED, ADOPTED, AND ORDAINED by the Township of Berwick, Adams County, Pennsylvania, by the Berwick Township Board of Supervisors, and it is hereby **ENACTED, ADOPTED, AND ORDAINED** by the authority of the same as follows:

SECTION 1: REMOVE DEFINITION FROM SECTION 201

Section 201 shall be amended by removing the following definition.

Communications Facilities

SECTION 2: ADD DEFINITIONS TO SECTION 201

Section 201 shall be amended by adding the following definitions to read as follows.

CLEAN WOOD – Natural wood that has no paint, stains, or other types of coatings, and natural wood that has not been treated with chemicals including, but not limited to, copper chromium arsenate, creosote or pentachlorophenol.

CO-LOCATION – The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless communication towers, water towers, utility poles, or any other building or structure not classified as a wireless communication tower that can support the placement or installation of wireless telecommunications facilities.

DISTRIBUTED ANTENNA SYSTEMS (DAS) – A small network of antennas that are connected to a common source that provides coverage in a building or a small geographic area.

OUTDOOR WOOD-FIRED BOILER – A fuel burning devise:

- (1) Designed to burn clean wood or other approved solid fuels.
- (2) That the manufacturer specifies for outdoor installation or for installation in structures not normally intended for habitation by humans or domestic animals, including structures such as garages and sheds.
- (3) Which heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

Also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, outdoor hydronic heaters, water stoves, or other such similar devices.

PHASE 2 OUTDOOR WOOD-FIRED BOILER – An outdoor wood-fired boiler that has been certified or qualified by the United States Environmental Protection Agency as meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly. Phase 2 outdoor wood-fired boiler models will be identified with a white hang tag.

SOLAR ARRAY – A grouping of multiple solar panels.

SOLAR PANEL – A structure containing one or more receptive cells or collector devices, the purpose of which is to use solar radiation to create usable electrical energy to provide power for the principal use of the property.

SOLAR ENERGY PRODUCTION FACILITY – An electricity generating facility whose main purpose, as a principal and commercial use of property, is to generate and supply electricity and which consists of one (1) or more ground-mounted solar arrays and other accessory structures and buildings, including substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

SMALL WIRELESS FACILITY – A wireless communications facility that meets all of the following conditions

- (1) The facility is mounted on structures fifty (50) feet or less in height including the antenna.
- (2) The facility is mounted on a structure that is no more than ten percent (10%) taller than other adjacent structures.
- (3) The facility does not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten percent (10%, whichever is greater.
- (4) Each antenna associated with such deployment is no more than three (3) cubic feet in volume, exclusive of associated antenna equipment.
- (5) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume.
- (6) The facility does not require antenna structure registration in accordance with Federal Communications Commission rules.
- (7) The facility is not located on Tribal lands.

- (8) The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards specified by Federal Communications Commission rules.

STACK – Any vertical structure that carries off smoke or exhaust from a furnace.

STEALTH TECHNOLOGY – Methods applied to wireless communications facilities which render them more visually appealing or blend the facilities into the existing structure or visual backdrop in 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 telephone, electric, and street light poles.

WIRELESS COMMUNICATIONS ANTENNA – Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service, or any other wireless communication signals, including without limitation omnidirectional or whip antennas and directional or panel antennas, owned and operated by any person or entity licensed by the Federal Communications Commission to operate such device. This definition does not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

WIRELESS COMMUNICATIONS FACILITY – The antennas, 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 service.

WIND TURBINE – A structure including a tower or base, foundation, blades, rotors, batteries, and other appurtenant equipment necessary to convert wind energy into usable electrical energy.

WIRELESS COMMUNICATIONS TOWER – A structure, other than a building, but including monopole towers, self-supporting towers, or guyed towers, that comprises an element of a wireless communication facility and that is designed to be used to support Wireless Communications Antennas.

SECTION 3: AMEND EXISTING DEFINITION IN SECTION 201

Section 201 shall be amended by amending the following definition to read as follows.

PUBLIC SERVICES OFFICES AND USES – An office of a governmental agency, social service organization, district justice or justice of the peace, notary, public or private utility, or political organization; a station or operations center for police, fire, ambulance, or other equivalent emergency management service. This definition shall not be interpreted to include wireless communications antenna, wireless communications towers, or wireless communications facilities.

SECTION 4: REMOVE A PERMITTED USE FROM THE PERMITTED USE TABLE OF THE RURAL CONSERVATION (RC) DISTRICT

Section 301.B(1) shall be amended by removing "Communications Antennas Mounted on an existing public utility tower, building or structure with communication equipment buildings" from the permitted use table the RC District.

SECTION 5: ADD PERMITTED USES TO A NEW PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE RURAL CONSERVATION (RC) DISTRICT

Section 301.B(1) shall be amended by adding the following to the permitted use table of the RC District

Public / Transportation / Utility Uses		
Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B

SECTION 6: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE RURAL CONSERVATION (RC) DISTRICT

Section 301.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the RC District

Outdoor Wood-Fired Boilers	P	Section 453
Solar Panels	P	Section 452
Wind Turbines	P	Section 454

SECTION 7: REMOVE A PERMITTED USE FROM THE PERMITTED USE TABLE OF THE RURAL RESIDENTIAL (RR) DISTRICT

Section 302.B(1) shall be amended by removing "Public Services Office Uses, not including communications towers and antenna" from the permitted use table the RR District.

SECTION 8: ADD PERMITTED USES TO THE PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE RURAL RESIDENTIAL (RR) DISTRICT

Section 302.B(1) shall be amended by adding the following under the Public / Transportation / Utility Uses section of the permitted use table of the RR District

Public Service Office Uses	P	Section 441
Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B

SECTION 9: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE RURAL RESIDENTIAL (RR) DISTRICT

Section 302.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the RR District

Solar Panels	P	Section 452
Wind Turbines	P	Section 454

SECTION 10: REMOVE PERMITTED USES FROM THE PERMITTED USE TABLE OF THE RESIDENTIAL LOW DENSITY (R-1) DISTRICT

Section 303.B(1) shall be amended by removing "Communications Antennas Mounted on an existing public utility tower, building or structure, with communication equipment buildings" and "Public Service Office Uses, with the exception of communications tower" from the permitted use table the R-1 District.

SECTION 11: ADD PERMITTED USES TO A RENAMED PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE RESIDENTIAL LOW DENSITY (R-1) DISTRICT

Section 303.B(1) shall be amended by renaming the "Public Uses" type of use category in the permitted use table of the R-1 District as " Public / Transportation / Utility Uses," and by adding the following to this type of use category.

Public Services Office Uses	P	Section 441
Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B

SECTION 12: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE RESIDENTIAL LOW DENSITY (R-1) DISTRICT

Section 303.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the R-1 District

Solar Panels	P	Section 452
Wind Turbines	P	Section 454

SECTION 13: REMOVE PERMITTED USES FROM THE PERMITTED USE TABLE OF THE VILLAGE RESIDENTIAL DENSITY (R-2) DISTRICT

Section 304.B(1) shall be amended by removing "Communications Antennas Mounted on an existing public utility tower, building or structure, with communication equipment buildings" and "Public Services Offices, with the exception of Communications Tower" from the permitted use table of the R-2 District.

SECTION 14: ADD PERMITTED USES TO A RENAMED PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE VILLAGE RESIDENTIAL DENSITY (R-2) DISTRICT

Section 304.B(1) shall be amended by renaming the "Public Uses" type of use category in the permitted use table of the R-2 District as "Public / Transportation / Utility Uses," and by adding the following to this type of use category.

Public Services Office Uses	P	Section 441
Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B

SECTION 15: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE VILLAGE RESIDENTIAL DENSITY (R-2) DISTRICT

Section 304.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the R-2 District

Solar Panels	P	Section 452
Wind Turbine	P	Section 454

SECTION 16: REMOVE A PERMITTED USE FROM THE PERMITTED USE TABLE OF THE RESIDENTIAL COMMUNITY (R-3) DISTRICT

Section 305.B(1) shall be amended by removing "Public Service Uses, with the exception of Communications Towers" from the permitted use table of the R-3 District.

SECTION 17: ADD PERMITTED USES TO A NEW PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE RESIDENTIAL COMMUNITY (R-3) DISTRICT

Section 305.B(1) shall be amended by adding the following to the permitted use table of the R-3 District

Public / Transportation / Utility Uses		
Public Service Uses	P	
Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B

SECTION 18: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE RESIDENTIAL COMMUNITY (R-3) DISTRICT

Section 305.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the R-3 District

Solar Panels	P	Section 452
Wind Turbines	P	Section 454

SECTION 19: REMOVE A PERMITTED USE FROM THE PERMITTED USE TABLE OF THE LIMITED MIXED USE (LMU) DISTRICT

Section 306.B(1) shall be amended by removing "Communications Antennas Mounted on an existing public utility tower, building or structure, with communication equipment buildings" and "Communication Tower" from the permitted use table of the LMU District.

SECTION 20: ADD PERMITTED USES TO A RENAMED PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE LIMITED MIXED USE (LMU) DISTRICT

Section 306.B(1) shall be amended by renaming the "Public Uses" type of use category in the permitted use table of the LMU District as " Public / Transportation / Utility Uses," and by adding the following to this type of use category.

Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Tower Based – Inside Public Right-of-Way	SE	Section 440A
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B
Wireless Communication Facilities – Tower Based – Outside Public Right-of-Way	SE	Section 440C

SECTION 21: ADD A PERMITTED USE TO THE COMMERCIAL AND INDUSTRIAL USES SECTION OF THE PERMITTED USE TABLE OF THE LIMITED MIXED USE (LMU) DISTRICT

Section 306.B(1) shall be amended by adding the following to the "Commercial and Industrial Uses" use category of the permitted use table of the LMU District.

Solar Energy Production Facility	SE	Section 439A
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SECTION 22: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE LIMITED MIXED USE (LMU) DISTRICT

Section 306.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the LMU District

Solar Panels	P	Section 452
Wind Turbines	P	Section 453

SECTION 23: REMOVE PERMITTED USES FROM THE PERMITTED USE TABLE OF THE HIGHWAY COMMERCIAL (HC) DISTRICT

Section 307.B(1) shall be amended by removing "Communications Antennas Mounted on an existing public utility tower, building or structure, with communication equipment buildings" and "Communication Towers" from the permitted use table of the HC District.

SECTION 24: ADD PERMITTED USES TO A RENAMED PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE HIGHWAY COMMERCIAL (HC) DISTRICT

Section 307.B(1) shall be amended by renaming the "Public Uses" type of use category in the permitted use table of the HC District as "Public / Transportation / Utility Uses," and by adding the following to this type of use category.

Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Tower Based – Inside Public Right-of-Way	SE	Section 440A
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B
Wireless Communication Facilities – Tower Based – Outside Public Right-of-Way	SE	Section 440C

SECTION 25: ADD A PERMITTED USE TO THE LIGHT INDUSTRIAL USES SECTION OF THE PERMITTED USE TABLE OF THE HIGHWAY COMMERCIAL (HC) DISTRICT

Section 307.B(1) shall be amended by adding the following to the "Light Industrial Uses" use category of the permitted use table of the HC District.

Solar Energy Production Facility	SE	Section 439A
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SECTION 26: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE HIGHWAY COMMERCIAL (HC) DISTRICT

Section 307.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the HC District

Solar Panels	P	Section 452
Wind Turbines	P	Section 454

SECTION 27: REMOVE PERMITTED USES FROM THE PERMITTED USE TABLE OF THE EMPLOYMENT CENTER (EC) DISTRICT

Section 308.B(1) shall be amended by removing "Communications Antennas Mounted on an existing public utility tower, building or structure, with communication equipment buildings" and "Communication Tower" from the permitted use table of the EC District.

SECTION 28: ADD PERMITTED USES TO A RENAMED PUBLIC / TRANSPORTATION / UTILITY USES SECTION OF THE PERMITTED USE TABLE OF THE EMPLOYMENT CENTER (EC) DISTRICT

Section 308.B(1) shall be amended by renaming the "Public Uses" type of use category in the permitted use table of the HC District as "Public / Transportation / Utility Uses," and by adding the following to this type of use category.

Wireless Communication Facilities – Co-location – Inside Public Right-of-Way	P	Section 440
Wireless Communication Facilities – Tower Based – Inside Public Right-of-Way	SE	Section 440A
Wireless Communication Facilities – Co-location – Outside Public Right-of-Way	P	Section 440B
Wireless Communication Facilities – Tower Based – Outside Public Right-of-Way	SE	Section 440C

SECTION 29: ADD A PERMITTED USE TO THE LIGHT INDUSTRIAL USES SECTION OF THE PERMITTED USE TABLE OF THE EMPLOYMENT CENTER (EC) DISTRICT

Section 308.B(1) shall be amended by adding the following to the "Light Industrial Uses" use category of the permitted use table of the EC District.

Solar Energy Production Facility	SE	Section 439A
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SECTION 30: ADD PERMITTED USES TO THE ACCESSORY USES SECTION OF THE PERMITTED USE TABLE OF THE EMPLOYMENT CENTER (EC) DISTRICT

Section 308.B(1) shall be amended by adding the following to "Accessory Uses" use category of the permitted use table of the EC District

Solar Panels	P	Section 452
Wind Turbines	P	Section 453

SECTION 31: ADD USE REGULATIONS FOR SOLAR ENERGY PRODUCTION FACILITIES

Article 4 shall be amended by adding the following as Section 439A.

"§ 439A. Solar Energy Production Facility

A. The facility shall receive Land Development Plan approval from the Township in accordance with the Berwick Township Subdivision and Land Development Ordinance. Should Special Exception review of the facility occur prior to Land Development Plan

submission, Special Exception approval shall include a condition that the applicant achieve Land Development Plan approval.

- B. The structures comprising the facility shall be constructed and located in a manner so as to minimize the necessity to remove existing trees upon the lot. In no event shall wooded acreage comprising more than two percent (2%) of the deeded acreage of the lot be removed.
- C. Where wooded acreage is removed, land area equivalent to two (2) times the area of wooded acreage removed shall be planted with trees at a sufficient density to re-establish a forest in the setting. At a minimum, at least fifty-five (55) trees per acre shall be planted. Such tree shall be depicted on a Landscaping Plan prepared in accordance with Section 521 of the Germany Township Subdivision and Land Development Ordinance and submitted in conjunction with the Land Development Plan for the site. The trees shall be subject to financial guarantee in accordance with applicable requirements of the Germany Township Subdivision and Land Development Ordinance.
- D. No portion of the facility, exclusive of access driveways to the facility, shall be located within any floodplain regulated by the Berwick Township Floodplain Management Ordinance. No portion of the facility, including access driveways to the facility, shall be located within a designated wetland.
- E. The location of solar arrays and all other accessory structures and buildings shall be subject to fifty (50) foot setbacks from all property lines, or to the setback requirements of the underlying zoning district, whichever is greater.
- F. Solar arrays shall not exceed twenty (20) feet in height. For fixed solar arrays, height shall be measured at the highest point of the solar array above ground level. For solar arrays designed to be able to change the angle of the individual solar panels, height shall be measured with the solar array oriented at maximum tilt.
- G. The facility shall be subject to the maximum lot coverage standard of the underlying zoning district within which the facility is proposed. The total surface area of all solar arrays shall be considered as lot coverage. For fixed solar arrays, total surface area shall be measured as the ground area directly under the solar array in its installed condition. For solar arrays designed to be able to change the angle of individual solar panels, total surface area shall be measured as the ground area directly under the solar array when oriented parallel to the ground.
- H. The facility shall not be artificially illuminated except to the extent required by safety or by any applicable federal, state or local authority.
- I. On-site power collection lines shall be installed underground.

J. The facility shall be enclosed by a fence, barrier, or similar structure with a minimum height of eight (8) feet to prevent or restrict unauthorized persons or vehicles from entering the property.

K. Clearly visible warning signs shall be placed on the required fence, barrier, or similar structure to inform individuals of potential voltage hazards.

L. A twenty-five (25) foot wide, densely planted, landscaped buffer shall be installed around the outside of the required fence, barrier, or similar structure. Such buffer shall meet the following requirements.

1. The landscaped buffer shall include a combination of evergreen trees, deciduous trees, and shrubs, arranged in a manner to replicate a natural woodland.
2. The evergreen trees and the deciduous trees shall not be a lesser height than that of the solar array(s) at time of planting.
3. All trees and shrubs shall be native to Pennsylvania.
4. Should the facility be located next to an existing wooded area with a width that exceeds the buffer width requirement of this Section, the existing wooded area may be considered to be the required landscaped buffer.

M. The facility shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as toward any adjacent street rights-of-way.

N. The facility shall be completely decommissioned by the facility owner within twelve (12) months after the end of the useful life of the facility. Decommissioning of the facility shall meet the following requirements.

1. Decommissioning shall include removal of all solar arrays, buildings, cabling, electrical components, roads, foundations, pilings, and any other associated facilities, so that the ground upon which the facility was located is again available for new uses.
2. Disturbed earth shall be graded and reseeded unless the landowner requests in writing that the access roads or other land surface areas not be restored. Such request shall be provided to the Township prior to the start of the decommissioning process.
3. The owner of the facility shall secure the costs of decommissioning by appropriate bond, letter of credit, or escrow agreement satisfactory to Berwick Township. Such estimate of costs shall be submitted by the owner and subject to approval by Berwick Township prior to approval of the Land Development Plan for the site.

4. The owner of the facility shall update the decommissioning cost estimate every 5 years. Such estimate of updated costs shall be submitted by the owner and subject to approval by Berwick Township."

SECTION 32: ADD USE REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES – CO-LOCATION – INSIDE PUBLIC RIGHT-OF-WAY, WIRELESS COMMUNICATIONS FACILITIES – TOWER BASED – INSIDE PUBLIC RIGHT-OF-WAY, WIRELESS COMMUNICATION FACILITY – CO-LOCATION – OUTSIDE PUBLIC RIGHTS-OF-WAY, AND WIRELESS COMMUNICATIONS FACILITY – TOWER BASED – OUTSIDE PUBLIC RIGHT-OF-WAY

Section 440 shall be removed in its entirety and replaced with the following.

"§ 440. Wireless Communication Facilities – Co-location – Inside Public Right-of-Way.

- A. Type of Facility: An applicant may propose either a stand-alone facility or a DAS.
- B. Location: An applicant may co-locate one (1) or more wireless communications facilities on existing poles, including but not limited to, existing tower based wireless communications facilities, telephone and/or electric utility poles, and light poles. Multiple Small Wireless Facilities, including DAS networks, proposed to be deployed at multiple locations shall be considered to be one application for the purpose of this review and approval process.
- C. Siting Requirements: Co-location of wireless communication facilities shall meet the following siting criteria:
1. The co-location of the communication facility and related equipment shall not cause any physical or visual obstruction to pedestrian or vehicle traffic and shall not create safety hazards to pedestrians or motorists.
 2. The facility and equipment shall not limit the public use of the right-of-way.
 3. The facility and equipment shall not be located within two (2) feet of the street cartway.
 4. Any related equipment that cannot be placed underground shall be screened through the use of landscaping or other decorative features.
- D. Stealth Technology: The most current Stealth Technology available shall be used to minimize aesthetic impact of collocated wireless communications facility within the surrounding environment. The Stealth Technology chosen by the applicant shall be subject to approval by the Township.

E. Time, Place, and Manner: The Township shall have the ability to determine the time, place, and manner of construction, maintenance, repair, and/or removal of all collocated wireless communication facilities within the rights-of-way of Township roads or other Township rights-of-way. Such ability shall be based on public safety, traffic management, physical burden on the right-of-way, and related considerations. Within public utility rights-of-way, the Township's decision regarding time, place, and manner of work shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

F. Removal or Relocation: The Township shall have the ability to require the removal or relocation of co-located wireless communications facilities from within the rights-of-way of Township roads or other Township rights-of-way. 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, the owner of co-located wireless communication facility shall, at its own expense, temporarily or permanently remove or relocate said facility. The Township may, consistent with its police powers and applicable Public Utility Commission regulations, require such removal or relocation under the following circumstances.

1. The construction, repair, maintenance, or installation of any Township or other public improvements in the right-of-way.
2. The operations of the Township or other governmental entity in the right-of-way.
3. Vacation of a road or release of a utility easement.
4. An emergency as determined by the Township.

G. Reimbursement for Right-of-Way Use: The Township shall have the ability to subject the owner of every co-located communications facility in a public right-of-way to a fair and reasonable use an occupancy fee, as may be fixed annually by the Township. Such compensation for right-of-way use shall be directed related to the Township's actual right-of-way management costs including, but not limited to, the costs of reviewing, inspecting, permitting, supervising, and other right-of-way management activities of the Township. The owner of each co-located wireless communication facility shall pay an annual fee to the Township to compensate the Township for costs incurred in connection with such management activities.

H. Review Period: The timing requirements of Articles 9 and 10 of this Ordinance notwithstanding, the review and approval period shall be those expressed in "Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment," or subsequent rulemaking, by the Federal Communications Commission, and specifically as follows.

1. Small Wireless Facility: Sixty (60) days from date of application. This time frame includes multiple deployments on existing poles within public right-of-way and on existing structures outside the public right-of-way, per Sections 440 and 440B of this Ordinance.

2. Applications for multiple deployments that contain Small Wireless Facilities on existing structures within public right-of-way and Small Wireless Facilities in any other location as regulated by this Ordinance: Ninety (90) days from date of application.

3. Facility other than a Small Wireless Facility: Ninety (90) days from date of application.

§ 440A. Wireless Communications Facilities – Tower Based – Inside Public Right-of-Way.

A. Type of Facility: An applicant may propose either a stand-alone facility or a DAS.

B. Location: An applicant may co-locate one (1) or more wireless communications facilities on new poles. Multiple Small Wireless Facilities, including DAS networks, proposed to be deployed at multiple locations shall be considered to be one application for the purpose of this review and approval process.

C. Evaluation of Siting Opportunities: An applicant seeking approval to erect or enlarge a tower based wireless communications facility shall demonstrate compliance with the following requirements.

1. An applicant shall demonstrate that all structures within the public right-of-way and within one-half (0.5) mile of the proposed site have been evaluated as a co-location site. Co-location opportunities include, but are not limited to, existing tower based wireless communication facilities, telephone and/or electric utility poles, and light poles. The applicant shall provide a site alternative analysis describing the location of potential co-location sites that were considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the alternative site was not chosen. Where a potential co-location site is not chosen, supplementary evidence shall include one (1) or more of the following reasons for not proposing to co-locate on the alternative site:

a. The proposed antennas and related equipment would exceed the structural capacity of the existing structure, as certified by an engineers certified in the Commonwealth of Pennsylvania, and that appropriate reinforcement cannot be accomplished.

b. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment, as certified by an

appropriate technical expert, and that the interference cannot be effectively mitigated.

c. The existing structure does not possess appropriate location, space, or access, to accommodate the proposed antennae and equipment or to allow the antennae and equipment to perform their intended function.

d. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure that exceeds applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Such a determination shall be certified by an appropriate technical expert.

e. A commercially reasonable agreement could not be reached with the owners of such structures. Where such an agreement is not reached, the applicant shall indicate why any offers or counter-offers made were deemed to be unreasonable.

D. Siting Requirements: Where the applicant has demonstrated that no co-location opportunities exist to site wireless communications antenna on an existing structure and that a wireless communications tower is necessary, the following siting criteria must be met:

1. The tower-based wireless communication facility and related equipment shall not cause any physical or visual obstruction to pedestrian or vehicle traffic and shall not create safety hazards to pedestrians or motorists.

2. The facility and equipment shall not limit the public use of the right-of-way.

3. The facility and equipment shall not be located within two (2) feet of the street cartway.

4. Any related equipment that cannot be placed underground shall be screened through the use of landscaping or other decorative features.

E. Tower Height: The tower based wireless communications facility shall not exceed forty (40) feet in height.

F. Tower Safety: An applicant shall demonstrate that the proposed tower based wireless communications facility will not affect surrounding properties or the public right-of-way as a result of structural failure, falling ice or other debris, or radio frequency interference.

G. Tower Type: The applicant shall a monopole tower type for the tower based wireless communications facility.

H. Stealth Technology: The most current Stealth Technology available shall be used to minimize aesthetic impact of the tower based wireless communications facility within the surrounding environment. The Stealth Technology chosen by the applicant shall be subject to approval by the Township.

I. A list of the contents of the equipment building or box, with specific attention to any potentially unsafe or toxic substances, including batteries, to be located in the facility, shall be provided. Documentation demonstrating how any spills of unsafe or toxic material will be contained within the equipment building or box shall also be provided.

J. Information regarding the intended power supply and auxiliary power supply for the facility shall be provided.

K. Time, Place, and Manner: The Township shall have the ability to determine the time, place, and manner of construction, maintenance, repair, and/or removal of all tower based wireless communication facilities within the rights-of-way of Township roads or other Township rights-of-way. Such ability shall be based on public safety, traffic management, physical burden on the right-of-way, and related considerations. Within public utility rights-of-way, the Township's decision regarding time, place, and manner of work shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

L. Removal or Relocation: The Township shall have the ability to require the removal or relocation of tower-based wireless communications facilities from within the rights-of-way of Township roads or other Township rights-of-way. 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, the owner of a tower based wireless communication facility shall, at its own expense, temporarily or permanently remove or relocate said facility. The Township may, consistent with its police powers and applicable Public Utility Commission regulations, require such removal or relocation under the following circumstances.

1. The construction, repair, maintenance, or installation of any Township or other public improvements in the right-of-way.
2. The operations of the Township or other governmental entity in the right-of-way.
3. Vacation of a road or release of a utility easement.
4. An emergency as determined by the Township.

M. Reimbursement for Right-of-Way Use: The Township shall have the ability to subject the owner of every tower based communications facility in a public right-of-way

to a fair and reasonable use an occupancy fee, as may be fixed annually by the Township. Such compensation for right-of-way use shall be directed related to the Township's actual right-of-way management costs including, but not limited to, the costs of reviewing, inspecting, permitting, supervising, and other right-of-way management activities of the Township. The owner of each tower based wireless communication facility shall pay an annual fee to the Township to compensate the Township for costs incurred in connection with such management activities.

N. Review Period: The timing requirements of Articles 9 and 10 of this Ordinance notwithstanding, the review and approval period shall be those expressed in "Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment," or subsequent rulemaking, by the Federal Communications Commission, and specifically as follows.

- a. Small Wireless Facility: Ninety (90) days from date of application. This time frame includes multiple deployments on new poles within public right-of-way and in any other location as regulated by this Ordinance.
- b. Facility other than a Small Wireless Facility: One Hundred Fifty (150) days from date of application.

§ 440B. Wireless Communication Facility – Co-location – Outside Public Rights-of-Way.

A. Type of Facility: An applicant may propose either a stand-alone facility or a DAS.

B. Location: An applicant may co-locate one (1) or more wireless communications facilities on existing poles, including but not limited to, existing tower based wireless communications facilities, telephone and/or electric utility poles, and light poles. Such facilities may also be co-located on buildings and structures. Multiple Small Wireless Facilities, including DAS networks proposed to be deployed at multiple locations shall be considered to be one application for the purpose of this review and approval process.

C. Screening: Any related equipment that cannot be placed underground shall be screened through the use of landscaping or other decorative features.

D. Stealth Technology – Co-location on Wireless Communication Tower: Any Stealth Technology employed on the existing Wireless Communication Tower must be expanded to encompass the new Wireless Communication Facility to be co-located on said Tower.

E. Stealth Technology – Co-location on Other Towers, Poles, Structures, or Buildings: Stealth Technology shall be employed to minimize the visual impact of the Wireless Communications Facility within the surrounding environment. Specific requirements are as follows.

1. Buildings: Stealth Technology shall be employed that encloses the Wireless Communications Facility in structure that is architecturally compatible with the host building.

2. Poles and Other Structures: Stealth Technology shall be employed such that the Wireless Communications Facility is installed either within the pole or structure, or flush on the external surface of the pole or structure.

F. Height: The following height requirements shall be applied.

1. Co-location on Existing Wireless Communications Tower: Co-location on an existing Wireless Communications Township shall not result in a Wireless Communications Tower height that exceeds that authorized by this Ordinance.

2. Co-location on Poles and Other Structures: Co-location on other poles and other structures shall not result in the Wireless Communications Facility exceeding the height of the pole or structure.

3. Co-location on Buildings: Co-location on an existing building may result in the Wireless Communication Facility exceeding the building height by no more than ten (10) feet. However, in no case shall the height of the Wireless Communication Facility exceed the maximum building height of the underlying zoning district by more than five (5) feet.

G. Review Period: The timing requirements of Articles 9 and 10 of this Ordinance notwithstanding, the review and approval period shall be those expressed in "Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment," or subsequent rulemaking, by the Federal Communications Commission, and specifically as follows.

a. Small Wireless Facility: Sixty (60) days from date of application. This time frame includes multiple deployments on existing poles and other structures outside of public right-of-way and within public right-of-way and on existing structures inside the public right-of-way per Sections 440 and 440B of this Ordinance.

b. Applications for multiple deployments that contain Small Wireless Facilities on existing structures outside of public right-of-way and Small Wireless Facilities in any other location as regulated by this Ordinance: Ninety (90) days from date of application.

c. Facility other than a Small Wireless Facility: Ninety (90) days from date of application.

§ 440C. Wireless Communications Facility – Tower Based – Outside Public Right-of-Way.

A. Type of Facility: An applicant may propose either a stand-alone facility or a DAS.

B. Location: An applicant may co-locate one (1) or more wireless communications facilities on new poles. Multiple Small Wireless Facilities, including DAS networks, proposed to be deployed at multiple locations shall be considered to be one application for the purpose of this review and approval process.

C. Evaluation of Siting Opportunities: An applicant seeking approval to erect or enlarge a tower based wireless communications facility shall demonstrate compliance with the following requirements.

1. An applicant shall demonstrate that all structures in excess of fifty (50) feet in height within a one (1) mile radius of the proposed site have been evaluated as a co-location site. Co-location opportunities include, but are not limited to, smoke stacks, water towers, agricultural silos, tall buildings, towers operated by other wireless communication companies, and other communications towers (fire, police, etc.). The applicant shall provide a site alternative analysis describing the location of potential co-location sites that were considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the alternative site was not chosen. Where a potential co-location site is not chosen, supplementary evidence shall include one (1) or more of the following reasons for not proposing to co-locate on the alternative site:

a. The proposed antennas and related equipment would exceed the structural capacity of the existing structure, as certified by an engineers certified in the Commonwealth of Pennsylvania, and that appropriate reinforcement cannot be accomplished.

b. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment, as certified by an appropriate technical expert, and that the interference cannot be effectively mitigated.

c. The existing structure does not possess appropriate location, space, or access, to accommodate the proposed antennae and equipment or to allow the antennae and equipment to perform their intended function.

d. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure that exceeds applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Such a determination shall be certified by an appropriate technical expert.

e. A commercially reasonable agreement could not be reached with the owners of such structures. Where such an agreement is not reached, the applicant shall indicate why any offers or counter-offers made were deemed to be unreasonable.

2. If the applicant claims that no structures in excess of fifty (50) feet exist within the study area, the applicant shall provide evidence detailing how such determination was made. Such written evidence shall be submitted, and deemed to be complete, before approval for the erection of a wireless communications tower may occur.

3. An applicant shall demonstrate that the proposed facility is needed at the proposed location. The applicant shall provide an existing coverage analysis demonstrating a "dead spot" at or near the proposed tower location.

4. An applicant shall provide a written analysis that identifies potential negative impacts on neighboring residents and properties, and indicates how negative impacts will be effectively mitigated.

D. Siting Requirements: Where the applicant has demonstrated that no co-location opportunities exist to site wireless communications antenna on an existing structure and that a wireless communications tower is necessary, the following siting criteria must be met:

1. The minimum distance between the base of the wireless communications tower, or any anchoring guy wires, and any property line or public road right-of-way, shall be a minimum of thirty percent (30%) of the tower height.

2. The minimum distance between the base of the tower, or any anchoring guy wires, and residential, place of worship, or school property shall be two hundred (200) feet.

3. Where such features exist, the applicant shall use one or more of the following or similar natural features to minimize the visibility of the wireless communications tower:

a. Groves of Trees

b. Sides of Hills

E. Tower Height: An applicant must demonstrate that a proposed wireless communications tower is the minimum height required to function satisfactorily. In no case shall a wireless communications tower exceed one hundred eighty (180) feet. The measurement of tower height shall include the tower itself as well as any antennas or other equipment attached thereto.

F. Tower Safety: An applicant shall demonstrate that the proposed tower will not affect surrounding properties as a result of structural failure, falling ice or other debris, or radio frequency interference.

G. All wireless communications towers shall be fitted with anti-climbing devices, as approved by the manufacturers. A detail confirming the design of such features shall be included in the application for approval of the wireless communications tower.

H. Tower Type: The applicant shall use the monopole, or davit-pole, type of wireless communications tower.

I. Landscaping: The applicant shall demonstrate compliance with the following landscaping requirements:

1. The base of the wireless communications tower, any supporting cables or guy wires, maintenance buildings, and parking areas, shall be enclosed by a protective fence. The protective fence shall be a minimum of six (6) feet in height.

2. An evergreen screen shall be planted around the external perimeter of the protective fence. Evergreen trees shall be a minimum of six (6) feet at planting, and shall reach a minimum height of fifteen (15) feet at maturity. Any trees which die within a year of planting shall be replaced by the applicant. Where the tower site is either fully or partially located within a grove of existing trees, the evergreen screen requirement may be waived along any portion of the protective fence that is blocked from view from beyond the property line hosting the facility by said grove of trees.

J. Color: Where a specific color pattern is not required by the Federal Aviation Administration (FAA), wireless communications tower colors shall be a light grey or galvanized metal color. Towers shall be finished or treated in a manner that prevents the formation of rust.

K. Site Access: Access to a wireless communications tower facility shall be provided by an access driveway located within an easement of at least twenty (20) feet in width. The access driveway shall be a minimum of ten (10) feet in width, and shall be constructed with a dust-free, all weather surface for its entire length.

L. Land Development Plan Approvals: An applicant shall obtain land development approval from the Berwick Township Board of Supervisors in accordance with applicable provisions of the Berwick Township Subdivision and Land Development Ordinance prior to Zoning Permit approval.

M. A list of the contents of the equipment building or box, with specific attention to any potentially unsafe or toxic substances, including batteries, to be located in the facility, shall be provided. Documentation demonstrating how any spills of unsafe or

toxic material will be contained within the equipment building or box shall also be provided.

N. Information regarding the intended power supply and auxiliary power supply for the facility shall be provided.

O. Review Period: The timing requirements of Articles 9 and 10 of this Ordinance notwithstanding, the review and approval period shall be those expressed in "Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment," or subsequent rulemaking, by the Federal Communications Commission, and specifically as follows.

a. Small Wireless Facility: Ninety (90) days from date of application. This time frame includes multiple deployments on new poles outside public right-of-way and in any other location as regulated by this Ordinance.

b. Facility other than a Small Wireless Facility: One Hundred Fifty (150) days from date of application."

SECTION 33: ADD USE REGULATIONS FOR SOLAR PANELS AS ACCESSORY USE

Article 4 shall be amended by adding the following as Section 452.

"§ 452. Solar Panels as Accessory Use

A. Solar Panels – Roof Mounted: Roof mounted solar panels shall be permitted in accordance with the following standards.

1. Roof mounted solar panels shall comply with the maximum building height requirements of the zoning district where the installation of the solar panel is proposed.

2. On pitched roofs, roof mounted solar panels shall be installed as close to parallel as possible to the pitch of the roof while not sacrificing the efficiency of the solar panel.

3. On flat roofs, roof mounted solar panels may be installed at an angle to improve the efficiency of the solar panel with regard to the predominant sun angle provided that the solar panel is placed in a manner to minimize its visibility from street level. In no case may solar panels extend more than five (5) feet above the top of a flat roof.

B. Solar Panels – Ground Mounted: Ground mounted solar panels shall be permitted in accordance with the following standards.

1. Ground mounted solar panels shall comply with the setback requirements of the district where the installation of the solar panel is proposed.

2. Ground mounted solar panels shall not be permitted by-right in any front yard. The Zoning Hearing Board may authorize, by special exception, the installation of a ground mounted solar panel in a front yard if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively.

3. Ground mounted solar panels shall not exceed a height of ten (10) feet.

4. Ground mounted solar panels shall be subject to the maximum lot coverage standard of the underlying zoning district within which the facility is proposed. The total surface area of all solar arrays shall be considered as lot coverage. For fixed solar arrays, total surface area shall be measured as the ground area directly under the solar array in its installed condition. For solar arrays designed to be able to change the angle of individual solar panels, total surface area shall be measured as the ground area directly under the solar array when oriented parallel to the ground.

5. Glare from ground mounted solar panels shall be directed away from adjoining properties or street rights-of-way. Fences or vegetative screens may be utilized to prevent glare from impacting adjoining properties or street rights-of-way.

C. General Requirements – The following requirements shall apply to all solar panel installations.

1. Exemptions: Solar panels up to ten (10) square feet or less of cumulative area and that are designed to power an individual piece of equipment rather than the overall principal use of a property are exempted from having to apply for and receive a Zoning Permit.

2. Building Permit Required – The installation of solar panels shall be subject any permitting and inspections with regard to applicable provisions of the Pennsylvania Uniform Construction Code (UCC) in addition to any permitting required to demonstrate compliance with the provisions of this Ordinance. Issuance of any required building permitting shall be listed as a condition of approval for the Zoning Permit required by this Ordinance.

3. Purpose of Facility: The primary purpose of a solar panel installation shall be to provide power for the principal use of the property where the installation of said power generation is proposed. The primary purposes of the facility shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time."

SECTION 34: ADD USE REGULATIONS FOR OUTDOOR WOOD-FIRED BOILERS

Article 4 shall be amended by adding the following as Section 453.

"§ 453. Outdoor Wood-Fired Boilers

A. Locations Authorized: The use of outdoor wood-fired boilers is permitted in the RC Districts. The use of outdoor wood-fired boilers is not permitted in the RR, R-1, R-2, R-3, LMU, HC, and EC Districts.

B. Performance Standards: The use of outdoor wood-fired boilers shall comply with the following performance standards.

1. Boiler Type: Only Phase 2 outdoor wood-fired boilers shall be permitted.
2. Setbacks: No outdoor wood-fired boiler shall be located closer than one hundred fifty (150) feet from any property line.
3. Stack Height: All outdoor wood-fired boilers shall be installed with a permanent attached stack with a minimum stack height of ten (10) feet above ground level.
4. Stack Design: All stacks shall be fitted with either a spark arrestor or a stack or chimney cap.
5. Fuel Requirements: Fuel for outdoor wood-fired boilers shall be limited to the following. Use of fuel sources not listed below shall be considered to be a violation of this Ordinance.
 - a. Clean wood.
 - b. Wood pellets made from clean wood.
 - c. Home heating oil, natural gas, propane, or other fuel that meets applicable sulfur limits and that is used solely as a starter or as supplemental fuel for dual-fired outdoor wood-fired boilers.
 - d. Agricultural seeds including, but not limited to, corn, cherry pits, or similar seeds.
6. Number: There shall be no more than one (1) outdoor wood-fired boiler on any property.
7. Building Permit Required – The installation of outdoor wood-fired boilers shall be subject any permitting and inspections with regard to applicable

provisions of the Pennsylvania Uniform Construction Code (UCC) in addition to any permitting required to demonstrate compliance with the provisions of this Ordinance. Issuance of any required building permitting shall be listed as a condition of approval for the Zoning Permit required by this Ordinance."

SECTION 35: ADD USE REGULATIONS FOR WIND TURBINES

Article 4 shall be amended by adding the following as Section 454.

"§ 454. Wind Turbines

A. Performance Standards

1. Minimum Setbacks: Wind turbines shall be setback from all property lines a minimum distance the height of the tower supporting the wind turbine unless the tower is equipped with a structural break point. In such case, the wind turbine shall be setback a minimum distance of the height of the structural break point above ground level. In no case may the minimum setback be less than one-half (1/2) of the supporting tower height.
2. The tower supporting the wind turbine shall not exceed one hundred fifty percent (150%) of the maximum building height for the zoning district where installation of the wind generation facility is proposed.
3. Wind turbines shall not be permitted in any front yard.

B. General Requirements – The following requirements shall apply to all wind turbine installations.

1. Building Permit Required – The installation of wind turbines shall be subject any permitting and inspections with regard to applicable provisions of the Pennsylvania Uniform Construction Code (UCC) in addition to any permitting required to demonstrate compliance with the provisions of this Ordinance. Issuance of any required building permitting shall be listed as a condition of approval for the Zoning Permit required by this Ordinance.
2. Purpose of Facility: The primary purpose of a wind turbine installation shall be to provide power for the principal use of the property where the installation of said power generation is proposed. The primary purposes of the facility shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time."

SECTION 36: REPEALER

All provisions of the Berwick Township Zoning Ordinance are hereby revised and amended, as necessary and appropriate, in order to insure and confirm consistency thereof with the provisions of the present Ordinance. Any Ordinance or Resolution, or any portion of any Ordinance or Resolution, or any portion of the Berwick Township Zoning Ordinance, which is inconsistent with the contents of the present Ordinance shall be, and the same is hereby, repealed insofar as the same is affected by or inconsistent with the provisions of the present Ordinance.

SECTION 37: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the present Ordinance.

SECTION 38: EFFECTIVE DATE

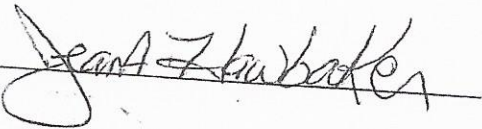
The Ordinance shall be effective on and as of 12:00 AM, Feb. 22, 2020.

ENACTED AND ORDAINED into an Ordinance this 16 day of February, 2020.

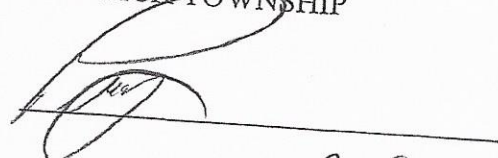
ATTEST:

TOWNSHIP OF BERWICK
ADAMS COUNTY,
PENNSYLVANIA

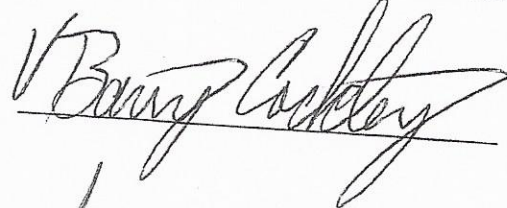
BOARD OF SUPERVISORS OF
BERWICK TOWNSHIP



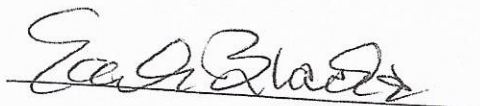
(SEAL)











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IN A RECENT PUBLICATION, WE HAVE
DESCRIBED THE STRUCTURE OF A
NEW TYPE OF POLYMER, WHICH IS
A HYDROLYZABLE POLYESTER.
THE POLYMER IS A LINEAR
POLYESTER, WHICH IS
HYDROLYZABLE IN AQUEOUS
SOLUTION.

THE POLYMER IS A LINEAR
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