

ORDINANCE NO. 1 OF 2025
WHITE HAVEN BOROUGH, LUZERNE COUNTY, PENNSYLVANIA

**AN ORDINANCE AMENDING THE WHITE HAVEN BOROUGH ZONING
ORDINANCE NO. 3 OF 2012 TO EXPAND AREAS IN THE BOROUGH WHERE
VACATION HOME RENTALS ARE PERMITTED, TO ADDRESS PUBLIC
INCUBATOR USES, COMMERCIAL VILLAGES, SMALL WIRELESS FACILITIES,
AND CARGO CONTAINERS**

BE IT ENACTED AND ORDAINED by White Haven Borough Council, and it is hereby enacted and ordained by the authority of the same, that the White Haven Borough Zoning Ordinance is hereby amended as follows:

Adding the following terms under Chapter 29, Zoning, Part 2, Definitions, Section 202 of the Zoning Ordinance:

“Accessory Structure” means a subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. Cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not accessory structures.

“Cargo Container” means any container (refrigerated or non-refrigerated) that permits the temporary storage and protection of cargo, and which may be transported by ship, rail or truck without intermediate loading and unloading of the contents of the container. The term includes any reusable container originally designed for or used in the packing, shipping, moving, or transporting of freight, articles, goods, products, or commodities, or capable of being mounted or moved by rail, truck, or ship by means of being mounted on a chassis or similar transport device. This definition includes any container having a similar appearance to and similar characteristics of a cargo container.

“Cargo Container Storage Yard” means the principal use of land for the storage, rent or resale of empty cargo containers. This definition does not include the temporary accessory use of cargo containers associated with a permitted warehousing and distribution or trucking facility.

“Portable Storage Containers” includes portable containers or PODS that are used for temporary storage of personal property of occupants on the lot during times of transition such as remodeling, moving, construction, or emergency storage.

“Public Incubator” means a use providing work space or digital platforms for a mix of commercial type uses created to offer new businesses of differing types access to resources in one building. The use may provide expert advisors, mentors, administrative support, office equipment, training, or potential investors to one or more businesses within the incubator. The use is intended to develop new businesses with the hopes they will later move to larger facilities

in the area. The use must be offered by a college or university; governmental entity, or economic development organization such as the local chamber of commerce.

“Small Scale Village Commercial Cluster Development” means separate businesses located in varying sized permanent or temporary buildings on one or more lots where the businesses offer mixed commercial uses for shopping, dining and lodging or to celebrate favorite festivals and special events.

“Small Wireless facility (SWF)” means a wireless telecommunication facility and all related equipment, where the antenna is no more than three cubic feet in volume and all other related equipment on the structure is no more than 28 cubic feet in volume. This term also applies to any micro wireless facility meaning a wireless telecommunications facility where it is not larger in dimension than 36” in length, 18” in width and 12” in height, does not have an exterior antenna which is longer than 11 ½”, and are installed directly onto existing overhead cables owned by telecommunications providers.

“Tiny house” means a residential dwelling unit that is 400 square feet or less in floor area excluding lofts. Tiny houses are allowed only in the O-1, Open Space, Zoning District.

Amending the following Sections of Part 4, Basic District Regulations, of the Zoning Ordinance to include the following use:

§406. “C-1” Commercial, Neighborhood.

- (c) Conditional Uses.
- 2. Public Incubator.

§407. “C-2” Commercial, Down town.

- (c) Conditional Uses.
- 2. Public Incubator.
- 3. Small Scale Village Commercial Cluster Development.

§408. “C-3” Commercial, General.

- (a) Permitted Uses.
- 4. Dwelling units attached to a business and Vacation Home Rental.
- (c) Conditional Uses.
- 2. Public Incubator.

§409. “I-1” Industrial, Light.

- (a) Permitted Uses.

18. Customary accessory uses, including Cargo Containers.

(c) Conditional Uses.

2. Cargo Containers Storage Yard

§410. "I-2" Industrial, Heavy.

(a) Permitted Uses.

11. Customary accessory uses, including Cargo Containers

(c) Conditional Uses.

2. Cargo Containers Storage Yard

§411. "O-1" Open Space.

(a) Permitted Uses.

6. Single-family dwellings units (including mobile homes and tiny houses/tiny house developments on permanent foundations)

Adding the following section under Chapter 29, Zoning, Part 6, General Regulations:

§621. Portable Storage and Cargo Containers.

(a) Portable Storage Containers.

1. Upon any lot portable storage containers may only be used during construction, remodeling, moving, or an emergency or disaster which requires the temporary storage of personal property.
2. The use of portable storage containers for permanent storage, storage of vehicles, junk, waste containment, or for use as a dwelling until is prohibited.
3. The use of portable storage containers on a lot may not exceed 90 days during any one calendar year. However, the zoning officer may issue up to one 90-day extension if it can be shown that the nature of the proposed activity is ongoing and reasonable progress requires additional time with a definitive ending date.
4. Portable storage containers may not block any required sight clearances and shall be setback at least 10 feet from all lot lines.

(b) Cargo Containers as an Accessory Use in the I-1 and I-2 Zoning Districts.

1. Cargo Containers shall comply with the following regulations:
 2. Cargo containers shall only be permitted as an accessory structure or use in the I-1, and I-2 Zoning Districts provided the minimum lot size is one acre.
 3. Cargo containers where permitted shall not be:
 - A. Stacked above one another.
 - B. Used as a sign for advertising.
 - C. Used for the storage of hazardous substances.
 4. Cargo containers shall be:
 - A. Located in a side or rear yard.
 - B. Not less than 25 feet from any lot line.
 - C. Limited to two per lot.
- (c) Cargo Container Storage Yards.
- (1) Cargo Container Storage Yards shall comply with the following regulations:
 - A. There shall be no stacking of cargo containers.
 - B. The lot shall be enclosed by a fence not less than eight feet in height constructed and intended to screen the use of the property from public view.
 - C. All driveways, access drives and parking areas shall be paved.
 - (iv) All cargo container storage areas shall be located not less than 50 feet from all lot lines.

Adding the following section under Chapter 29, Zoning, Part 8, Supplemental Regulations:

§838. Public Incubator.

- (a) No more than four uses shall be permitted in a building.
- (b) No industrial uses shall be permitted.
- (c) Each use shall have an area of not more than 1,000 square feet of total floor area. Floor area shall not include any shared workspace areas.

- (d) Each use must comply with off-street parking and loading requirements of Part 7 of the zoning ordinance.
- (e) Proof of sponsorship shall be required at the time of application.

§839. Tiny house and tiny house development. A tiny house whether on its own lot or in a tiny house development shall comply with the following requirements:

- (a) A tiny house shall comply with the requirements of the applicable International Residential Code (IRC).
- (b) A tiny house shall be serviced with public water and sewer and must include functional cooking, sleeping, toiletry, and living areas that support normal daily residential activities.
- (c) Tiny house shall be affixed to a permanent foundation constructed in accordance with the IRC or applicable building code; and shall not be placed to move under its own power.
- (d) A tiny house shall meet the dimensional requirements of the O-1, Open Space, Zoning District.

§840. Small wireless facilities (SWF). An SWF shall comply with the requirements of this section.

- (a) SWF on a pole in a right-of-way (ROW). SWF on a pole in a ROW shall comply with the following requirements:
 - 1. Height. SWF may not extend more than ten feet above the pole supporting them.
 - 2. Installation. SWF shall be installed:
 - A. In accordance with the applicable building code in force at the time of installation.
 - B. Not be less than 1,000 feet away from the nearest other SWF, and not less than 250 feet from any residential dwelling unit located in the R-1, R-2, or R-3 zoning district.
 - C. On an existing pole that can support its weight and the weight of any co-located equipment.
 - D. Within the width of the existing pole to not exceed the diameter of the pole.
 - E. So that all equipment not to be installed on the pole must be located underground, flush to the ground, within three feet of the pole. Each installation is to have its own dedicated power source to be installed and metered separately.

3. Access. Wireless providers and their employees, agents, and contractors shall have the right of access to permitted poles, wireless support structures and small wireless facilities in the ROW in accordance with local and state highway occupancy permits and other ordinances applicable to doing work in the ROW.
 4. Repairs. A wireless provider shall repair, at the wireless provider's sole cost and expense, any damage to public streets, sidewalks, curbs, gutters, trees, poles or other property, utility lines and systems, or sewer or water systems or lines resulting from the collocation of a small wireless facility in the ROW or the installation of a pole in the ROW. The wireless provider shall restore such areas, structures, and systems to substantially the same condition in which they existed prior to the damage.
 5. Insurance. A wireless provider that has been granted approval to place an SWF in a ROW shall maintain in effect until removed, commercial general liability insurance and commercial automobile liability insurance covering the borough against claims, injury or damage to persons or property caused by the proposed work, in amounts of \$1,000,000 per occurrence and \$2,000,000 annual aggregate, and \$2,000,000 for each personal injury liability. On request of the borough, such wireless provider shall provide certificates of insurance or other evidence of the above coverage. A service provider may self-insure any required coverage provided the provider or the provider's parent company maintains a net worth of at least \$200 million.
 6. Removal. Within 90 days following written notice from the zoning officer, a wireless provider shall, at the wireless provider's own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any SWF collocated on a pole or within a ROW whenever the zoning officer has determined that such action is necessary for the construction, repair, maintenance, or installation of any borough improvement in the ROW or for the operation of any other necessary utility in the ROW.
- (b) SWF on an existing structure outside of ROW. SWF on an existing structure outside of a ROW shall comply with the following:
1. Height. SWF may not extend more than 10 feet above the structure supporting them. The structure on which the SWF is mounted must be:
 - A. 50 feet or less in height; or
 - B. No more than 10% taller than other adjacent structures, or

- C. Not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height of the collocation of new antenna facilities.
2. Installation. SWF shall be installed:
- A. In accordance with the applicable building code in force at the time of installation.
 - B. Not be less than 1,000 feet away from the nearest other SWF, and not less than 250 feet from a residential dwelling unit not located on the property where the SWF is being installed.
 - C. On a structure that can support its weight and the weight of any co-located equipment.
 - D. Within the width of the existing structure.
 - E. So that all equipment not to be installed on the structure must be located underground, flush to the ground, within three feet of the structure. Each installation is to have its own dedicated power source to be installed and metered separately.
- (c) A SWF not in a ROW or on a structure (stand-alone). A SWF that is not mounted in an ROW or on an existing structure shall, in addition to all other applicable requirements, comply with the following:
- 1. The SWF must be installed in accordance with the applicable building code in force at the time of installation.
 - 2. The SWF may not be more than 50 feet in height.
 - 3. The SWF may not be located (measured from the base of the support structure):
 - A. Within 1,000 feet of another SWF.
 - B. On a property that has another principal building or use.
 - C. Within 100 feet from all lot lines.
 - 4. All equipment not installed on the SWF must be located underground. Each installation is to have its own dedicated power source to be installed.
 - 5. The SWF must be designed and constructed to be stackable (structurally capable of being increased in height) so that additional antenna arrays can

be accommodated in addition to the arrays on the original permitted SWF to facilitate future co-location.

6. A fence, a minimum of eight feet in height and of a design to restrict unauthorized access, shall be installed around the SWF support structure and other equipment.
 7. Existing vegetation on and around the lot upon which the SWF is to be located shall be preserved to the greatest extent possible. In addition, landscaping installation and maintenance may be required to screen as much of the support structure as possible, the fence surrounding the support structure, any other ground level features (such as a building), and, in general, buffer the SWF and support structure site from neighboring properties and the sight lines from prominent viewing locations. Any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping is permitted, if they achieve the same degree of screening as the required landscaping.
 8. Access to the SWF and support structure shall be provided by means of a public street or easement to a public street in accord with a highway occupancy permit from the applicable issuing authority. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 feet, with a paved surface for its entire length. Access shall, if feasible, be provided along existing access points and drives.
- (d) Service provider required. No zoning approval shall be given for any new SWF until documentation is provided that a service provider has contracted for the use of the SWF. An applicant may apply for approval of the SWF, and any approval must be conditioned upon confirmation of use by the required service provider.
- (e) Location requirement and number. The applicant shall demonstrate by using technological evidence that the SWF and support structure must go where it is proposed to satisfy its function in its grid system. The number of SWF to be installed on a lot by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by the applicant or service provider.
- (f) Co-location, new tower. The applicant must demonstrate that the applicant contacted, in writing, the owners of all tall structures within a one-mile radius of the site proposed, asked for permission to install the SWF on those structures, and was denied. An approval may be denied for a new tower if the applicant has not made a good faith effort to mount the SWF on an existing structure. A good faith effort shall demonstrate that one or more of the following reasons apply to a structure:

1. The proposed equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost.
 2. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure, and the interference cannot be prevented at a reasonable cost.
 3. Such existing structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to enable it to provide service consistent with the provider's system requirements.
 4. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
 5. A commercially reasonable agreement could not be reached with the owners of such structures.
- (g) Stealth technology. Stealth technology is required to ensure the SWF is compatible with its surroundings. The applicant shall provide graphic information that accurately portrays the visual impact of the proposed SWF from various vantage points in all directions, including from all parks and playgrounds and designated scenic areas. This graphic information may be provided in the form of photographs or computer-generated images with the SWF superimposed. A balloon test may be required to confirm the visual impact.
- (h) Performance and maintenance guarantees.
1. Performance guarantee. Applicants for zoning permits shall submit, together with the application, financial security by way of certified funds or cashier's check, an irrevocable letter of credit, or performance bond in the amount of 110% of the estimated costs of restoration for any work performed in a ROW as determined by a professional engineer licensed in Pennsylvania hired by the applicant at applicant's cost and approved by the borough.
 2. Maintenance guarantees. Upon completion of work, an applicant shall post maintenance security for a period of 12 months by way of certified funds or cashier's check, an irrevocable letter of credit, or a maintenance bond in the amount of 110% of the estimated costs of a possible replacement as determined by a professional engineer licensed in Pennsylvania hired by the applicant at applicant's cost and approved by the borough.

3. If the borough disapproves of an applicant's engineer's cost estimated for the posting of a guarantee, the borough may have its engineer prepare a cost estimate at the applicant's cost. In such case, the engineer for the borough's costs shall control for purposes of the guarantees under this subsection.
 4. The performance and maintenance guarantees shall be posted in addition to the permit application fee and the reimbursement of inspection fees incurred by the borough.
- (i) Abandonment. The zoning officer shall require a wireless provider to remove a SWF permitted under this section within 180 days after the date that the SWF ceases to be used unless the wireless service provider gives reasonable evidence that the provider is diligently working to place the SWF in service. Should the wireless service provider fail to timely remove the SWF, the zoning officer may contract for the removal of the facility and recover the actual, reasonable cost of such removal from the wireless service provider.
 - (j) Indemnification. A wireless service provider granted approval under this section shall defend, indemnify, and hold harmless the borough, its elected and appointed officials, council, boards, commissions, officials, officers, agents, contractors, volunteers, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including court costs and reasonable attorney's fees resulting from the negligence of the wireless service provider and the service providers officers, agents, or employees in connection with the permitted work. This indemnity provision shall apply regardless of the merit or outcome of such claim or suit.
 - (k) Fire control plan. The applicant shall provide a fire control plan including details about any fire suppression system proposed for any SWF. The plan shall be provided to the borough designated fire company for review and comment.
1. Fees. The fees for SWF are as follows:
 - A. Initial application fee for an SWF is \$500.00 for single application covering up to five collocated antennas and \$100.00 per antenna thereafter.
 - B. \$1,000.00 for application for a new pole.
 - C. Recurring fees are \$270.00 per site per year, including both fees for use of the ROW and any fees for attachment to a permitted municipal facility.
 2. The fees may be changed from time to time by resolution of borough council.

§841. Small Scale Village Commercial Cluster Development.

- (a) This use is only permitted in the Downtown Commercial District where the property consists of one or more acres of contiguous land and meets the requirements of this Section.
- (b) The uses permitted by conditional use are a mix of Vacation Home Rental, Bed and Breakfast, Outdoor Recreational Facilities, and any Retail Business or Customer Service Establishments permitted in the Downtown Commercial Zoning District. The uses are permitted by conditional use provided that they are intended primarily for the customers of Small Scale Village Commercial Cluster Development.
- (c) The use shall be laid out and developed as a single entity. The dimensional requirements of the Commercial Downtown Zoning District shall apply except that:
 - (1) The separation distance between buildings shall be 10 feet;
 - (2) The distance from an outdoor recreational area shall be 25 feet; and
 - (3) A density of one building per one-tenth of an acre shall be maintained for lots of one acre or more. On lots of less than one acre a maximum of ten buildings are permitted provided they meet all of the dimensional requirements.
- (d) The maximum number of buildings on a lot shall not exceed ten and the maximum total square feet of a building shall be at least 400 square feet.
- (e) Buildings shall be located on a permanent foundation.
- (f) Temporary buildings such as kiosks are permitted provided that:
 - 1. They have adequate ingress and egress.
 - 2. They are securely fastened to the ground, and capable of withstanding wind loads of at least 115 miles per hour. Proof of wind loads shall be provided at the time of application.
- (g) Tents and food trucks are prohibited, except for special events or festivals and then only by conditional use.
- (h) The use shall have direct access onto Main Street.

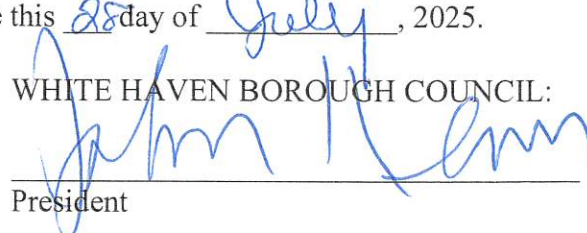
- (i) Public restrooms shall be made available to customers and the lot upon which the use is located shall be serviced by public water and public sewer.
- (j) The use shall require subdivision and land development approval and compliance with the Stormwater Management Ordinance.
- (k) One off-street parking space shall be provided for every five fixed seats, plus one off-street parking space shall be provided for each operator and for every 100 square feet of building area. On-street parking spaces may be used to substitute off-street parking spaces when it can be shown that the on-street parking space is available to accommodate the use.

NOW THEREFORE, these amendments to the White Haven Borough Zoning Ordinance are hereby enacted and become effective this 28 day of July, 2025.

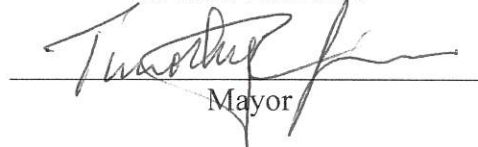
ATTEST:


Manager

WHITE HAVEN BOROUGH COUNCIL:


President

APPROVED BY:


Mayor