

TOWNSHIP OF BRECKNOCK, LANCASTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 229-2022

AN ORDINANCE OF THE TOWNSHIP OF BRECKNOCK, LANCASTER COUNTY, PENNSYLVANIA, TO AMEND THE BRECKNOCK TOWNSHIP ZONING ORDINANCE OF 1993, AS AMENDED, BY AMENDING ALL ZONING DISTRICTS IN ARTICLE V ENTITLED "DISTRICT REGULATIONS" TO PROVIDE FOR NON-TOWER WIRELESS FACILITIES AND SMALL WIRELESS FACILITIES AS A PERMITTED USE THEREIN, SECTION 110-19 ENTITLED "AGRICULTURAL-2 (AG) DISTRICT" TO PROVIDE FOR TOWER-BASED WIRELESS COMMUNICATION FACILITIES BY SPECIAL EXCEPTION, SECTION 110-20 ENTITLED "FOREST RECREATION (FR) DISTRICT" TO PROVIDE FOR TOWER-BASED WIRELESS COMMUNICATION FACILITIES BY SPECIAL EXCEPTION, SECTION 110-25 ENTITLED "LIGHT INDUSTRIAL (LI) DISTRICT" TO PROVIDE FOR TOWER-BASED WIRELESS COMMUNICATION FACILITIES BY SPECIAL EXCEPTION, ARTICLE VII ENTITLED "PERFORMANCE REGULATIONS", SECTION 110-64 ENTITLED "COMMUNICATION TOWERS AND ANTENNAS" TO RENAME TO "TELECOMMUNICATION AND WIRELESS COMMUNICATIONS FACILITIES" AND SETS FORTH THE REGULATIONS THEREIN, AND ARTICLE II ENTITLED "DEFINITIONS", SECTION 110-7 ENTITLED "DEFINITIONS" TO ADD DEFINITIONS REGARDING TELECOMMUNICATION AND WIRELESS COMMUNICATION FACILITIES

WHEREAS, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§10101 *et seq.*, enables a municipality through its zoning ordinance to regulate the uses of property; and

WHEREAS, the Board of Supervisors of the Township of Brecknock desires to amend the Brecknock Township Zoning Ordinance of 1993, as amended to provide updated regulations for cellular towers in accordance with emerging technology and to allow for non-tower wireless facilities and small wireless facilities in all zoning districts by right, and to add definitions regarding wireless communication facilities.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Brecknock, Lancaster County, Pennsylvania, pursuant to the authority conferred by the Municipalities Planning Code, that the following be and is hereby adopted:

SECTION 1. The Brecknock Township Zoning Ordinance of 1993, as amended, Article II entitled "Definitions", Section 110-7 entitled "Specific Terms", is hereby amended to alphabetically add or amend the following terms:

## **ANTENNA**

Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.

## **BASE STATION**

Any structure or equipment at a fixed location that enables FCC-licensed or authorized communications between user equipment and a communications network. Includes structures other than towers or utility pole that support or house an antenna, transceiver, or other associated equipment that constitutes part of a "base station" at the time the relevant application is filed with the State or municipal authorities, even if the structure was not built for the sole or primary purpose of providing such support, but does not include structures that do not at that time support or house base station components. The term includes buildings, water towers, etc., as well as DAS systems and small cells.

## **COLLOCATION or COLLOCATE**

To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure. The location of more than one (1) communications antenna on a communication tower, support structure, building, public utility transmission tower, or other similar structure.

## **COMMUNICATIONS EQUIPMENT BUILDING**

The building or cabinet in which electronic receiving, relay or transmitting equipment for a wireless communications facility is housed and covering an area on the ground not greater than two hundred square feet (200 sq. ft.).

## **COMMUNICATIONS SERVICE PROVIDER**

Any of the following:

- A. A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(5)).
- B. A provider of information service as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(24)).
- C. A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(51)).
- D. A wireless provider.

### **DATA COLLECTION UNIT (DCU)**

Any ground-mounted structure that is designed and constructed primarily for the purpose of data collection, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes structures used to wirelessly read utility meters and for other remote monitoring purposes. For the purposes of this ordinance, the term includes facilities that are not solely under the jurisdiction of the Pennsylvania Public Utility Commission, except where permitted by law. The term includes the structure and any supporting structures thereto.

### **DISTRIBUTED ANTENNA SYSTEMS (DAS)**

Network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

### **DECORATIVE POLE**

A municipal pole that is specially designed and placed for aesthetic purposes.

### **FCC**

The Federal Communications Commission.

### **HISTORIC DISTRICT OR BUILDING**

A building that is or a group of buildings, properties or sites that are:

- A. Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register.
- B. Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 CFR Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process).
- C. Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical and museums).
- D. Within a historic district created pursuant to the act of June 13, 1961 (P.L.282, No.167), entitled "An act authorizing counties, cities, boroughs,

incorporated towns and townships to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts.”

#### **MICRO WIRELESS FACILITY**

A small wireless facility that:

- A. does not exceed two cubic feet in volume; and
- B. has an exterior antenna no longer than 11 inches.

#### **MONOPOLE**

A WCF or site which consists of a single pole wireless support structure, designed and erected on the ground or on top of a structure, to support antennae and connecting appurtenances.

#### **MUNICIPAL POLE**

A utility pole owned, managed or operated by or on behalf of the Township.

#### **NON-COMMERCIAL ANTENNAS AND TOWERS**

A privately owned antenna or tower serving solely a residential dwelling on the same property upon which the antenna or tower is located, for the personal, amateur, non-commercial use of the owner of the property, for example, ham radio, citizens band radio, or direct broadcast satellite dishes.

#### **NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)**

All wireless communications facilities (WCFs) that are not tower-based, excluding small wireless facility and related equipment. Non-tower WCF shall include support structures for antennae and related equipment that is mounted to the ground or at ground-level. Other non-ground mounted examples can include, but not limited to, installation of a WCF on an existing utility pole or light pole outside of the right-of-way, barn, church steeple, farm silo, water towers or other similar structures.

#### **SMALL WIRELESS FACILITY MODIFICATION or MODIFY**

The improvement, upgrade or replacement of a small wireless facility or an existing utility pole that does not substantially change, as defined in 47 CFR 1.6100(b)(7)



(relating to wireless facility modifications), the physical dimension of the small wireless facility or utility pole.

#### **SMALL WIRELESS FACILITY**

The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:

- A. Each antenna associated with the deployment is no more than three cubic feet in volume.
- B. The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

#### **STEALTH TECHNOLOGY**

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

#### **SUBSTANTIALLY CHANGE or SUBSTANTIAL CHANGE (WHERE RELATED TO WIRELESS COMMUNICATION FACILITIES)**

A modification to the physical dimensions of a tower or base station as measured from the dimensions of the tower or base station inclusive of any modifications approved prior to the passage of the Spectrum Act (effective February 22, 2012), if it meets any of the following criteria:

- A. For tower-based WCFs outside of the public rights-of-way, it increases the height of the facility by more than ten percent (10%), or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed twenty feet (20'), whichever is greater;
- B. For tower-based WCFs outside of the public rights-of-way, it protrudes from the edge of the existing tower by more than twenty feet (20'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater;

- C. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
- D. It entails any excavation or deployment outside the current permitted area of the existing tower-based WCF or base station;
- E. It would defeat the existing concealment elements of the tower or base station; or
- F. It does not comply with conditions associated with the prior approval of construction or modification of the tower-based WCF or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds.

#### **TECHNICALLY FEASIBLE**

By virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a material reduction in the functionality of the small wireless facility.

#### **TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)**

Any structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers and monopoles. DAS hub facilities are considered to be tower-based WCFs.

#### **UTILITY FACILITY**

Buildings, other structures and equipment owned or operated by a public utility, as defined in 66 Pa.C.S. § 102 (relating to definitions), to provide service.

#### **UTILITY POLE**

A pole or similar structure that is or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for collocation. The term includes the vertical support structure for traffic lights but does not include wireless support structures or horizontal structures to which signal lights or other traffic control devices are attached.

#### **WIRELESS**

Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

## **WIRELESS COMMUNICATIONS FACILITY (WCF)**

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. Not included are Non-Commercial Antennas and Towers (as defined).

## **WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)**

Any person that applies for a wireless communications facility building permit, zoning approval and/or permission to use the public ROW or other Township owned land or property

## **WIRELESS FACILITY**

As follows:

- A. Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following:
  - (1) Equipment associated with wireless services.
  - (2) Radio transceivers, antennas, coaxial or fiber optic cables, regular and backup power supplies or comparable equipment, regardless of technological configuration.
- B. The term includes a small wireless facility.
- C. The term does not include any of the following:
  - (1) The structure or improvements on, under or within which the equipment is collocated.
  - (2) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna.
- D. The communications antenna(s), support structure, communications equipment building, if any, parking and/or other structures and equipment involved in receiving or transmitting wireless communications or radio signals. A wireless communications facility shall also be considered as a commercial communications facility.

## **WIRELESS INFRASTRUCTURE PROVIDER**

A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in this Commonwealth that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures but is not a wireless services provider.

## **WIRELESS FACILITIES APPLICABLE CODES**

Any of the following:

- A. Uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
- B. Local zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances that comply with this act.

## **WIRELESS FACILITIES APPLICATION**

A request submitted by an applicant to the Township:

Small Wireless Facility:

- A. for a permit to collocate small wireless facilities; or
- B. to approve the installation, modification or replacement of a utility pole with small wireless facilities attached.

Non-Tower Wireless Facility:

for a permit to install, construct, modify or replace a non-tower wireless communication facility on a structure or building other than a utility pole and outside the right-of-way.

Tower Based Wireless Facility:

for a permit to install or construct a tower based wireless communication facility.

## **WIRELESS INFRASTRUCTURE PROVIDER**

A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in this Commonwealth that builds or installs wireless

communication transmission equipment, wireless facilities or wireless support structures but is not a wireless services provider.

**WIRELESS PROVIDER**

A wireless infrastructure provider or a wireless services provider.

**WIRELESS SERVICES**

Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using wireless facilities.

**WIRELESS SERVICES PROVIDER**

A person who provides wireless services.

**WIRELESS SUPPORT STRUCTURE**

A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Township.

SECTION 2. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-18 entitled "Agricultural (AG) District", Section 110-18B.(1) is amended to add Letters (j) and (k) that shall read in their entirety as follows:

- (j) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (k) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 3. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-19 entitled "Agricultural-2 (AG-2) District", Section 110-19B.(1) is amended to add Letters (i) and (j) that shall read in their entirety as follows:

- (i) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (j) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 4. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-19 entitled "Agricultural-2 (AG-2) District", Section 110-19B.(2) is amended to amend Letter (s) in its entirety as follows:

- (s) Tower Based Wireless Facilities, subject to Section 110-64A. of this Zoning Ordinance.

SECTION 5. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-20 entitled "Forest Recreation (FR) District", Section 110-20B.(1) is amended to add Letters (j) and (k) that shall read in their entirety as follows:

- (j) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (k) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 6. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-20 entitled "Forest Recreation (FR) District", Section 110-20B.(2) is amended to amend Letter (i) in its entirety as follows:

- (i) Tower Based Wireless Facilities, subject to Section 110-64A. of this Zoning Ordinance.

SECTION 7. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-21 entitled "Residential Low (RL) District", Section 110-21B.(1) is amended to add Letters (f) and (g) that shall read in their entirety as follows:

- (f) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (g) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 8. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-22 entitled "Residential Medium (RM) District", Section 110-22B.(1) is amended to add Letters (f) and (g) that shall read in their entirety as follows:

- (f) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (g) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 9. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-23 entitled "Neighborhood Commercial (NC) District", Section 110-23B.(1) is amended to add Letters (k) and (l) that shall read in their entirety as follows:

- (k) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (l) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 10. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-24 entitled "Highway Commercial (HC) District", Section 110-24B.(1) is amended to add Letters (c) and (d) that shall read in their entirety as follows:

- (c) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (d) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 11. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-25 entitled "Light Industrial (LI) District", Section 110-25B.(1) is amended to add Letters (c) and (d) that shall read in their entirety as follows:

- (c) Non-Tower Wireless Communication Facilities outside of the Right-of-Ways, subject to Section 110-64B. of this Zoning Ordinance.
- (d) Small Wireless Communication Facilities within the Right-of-Ways, subject to Section 110-64C. of this Zoning Ordinance.

SECTION 12. The Brecknock Township Zoning Ordinance of 1993, as amended, Article V, entitled "District Regulations", Section 110-25 entitled Light Industrial (LI) District", Section 110-25B.(2) is amended to amend Letter (b) in its entirety as follows:

- (b) Tower Based Wireless Facilities, subject to Section 110-64A. of this Zoning Ordinance.

SECTION 13. The Brecknock Township Zoning Ordinance of 1993, as amended, Article VII, entitled "Performance Regulations", Section 110-64 entitled "Communication towers and antennas", is renamed to "Telecommunication and Wireless Communication Facilities".



SECTION 14. The Brecknock Township Zoning Ordinance of 1993, as amended, Article VII, entitled "Performance Regulations", Section 110-64 entitled "Telecommunication and Wireless Communication Facilities" shall read in its entirety as follows:

A. General Requirements for All Tower-Based Wireless Communications Facilities.

The following regulations shall apply to all tower-based wireless communications facilities:

(1) Development Regulations.

- (a) Permitted in Certain Districts. No tower-based WCF shall be located in a right-of-way. The distance from the base of a proposed tower-based WCF to the nearest point on any lot line, lease line and license line shall not be less than the full height of the tower structure. No more than one tower-based WCF shall be placed on any one lot, or leased or licensed parcel, nor within one thousand feet (1,000') of another tower-based WCF. Tower-based WCFs are permitted only in the AG-2, FR, and LI Zoning Districts as specified.
- (b) Gap in Coverage. An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of tower-based WCF's.
- (c) Sole Use on a Lot. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district. A subdivision plan shall be required for any lot or lease parcel created for occupancy by a tower-based WCF and telecommunications equipment building. A land development plan shall be required prior to construction of any tower-based WCF and telecommunications equipment building.
- (d) Combined with Another Use. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:

[1] The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications facility.

- [2] Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence, and buffer planting.
  - [3] Minimum Setbacks. The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within 500 feet of a lot in residential use or a residential district boundary.
- (2) Notice. Upon receipt of an application for a tower-based WCF, the Township shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
  - (3) Co-location. An application for a new tower-based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a 2-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
  - (4) Standard of Design and Care. Any tower-based WCF 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, the Uniform Construction Code (UCC), National Electric Safety Code, National Electric Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Structure design certification from a Pennsylvania registered professional engineer is required and the tower capacity shall be indicated. Detailed construction and elevation drawings, indicating antenna locations and mounting design, shall be submitted by the applicant. Any tower-based WCF 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.

- (5) Design Regulations.
- (a) The WCF 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 WCF applicant shall be subject to the approval of the Township.
  - (b) Any height extensions to an existing tower-based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
  - (c) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennae for future users.
  - (d) Any tower-based WCF over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (6) Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard design by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
- (7) Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of 125 feet, which height shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure.
- (8) Lighting. Tower-based WCF shall not be artificially lighted, except as required by law and as may be approved by the Township. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.
- (9) Surrounding Environs.
- (a) The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.

- (b) The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/ETA 222-B, as amended, to document and verify the design specifications of the foundation of the tower-based WCF.
- (10) Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any tower-based WCF based upon visual and/or land use impact.
- (11) Fence / Screen.
  - (a) A security fence having a maximum height of eight feet (8') shall completely surround any tower-based WCF or any building housing WCF equipment.
  - (b) An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
  - (c) The WCF applicant shall submit a landscape plan for review and approval by the Township Planning Commission for all proposed screening.
- (12) Identification. All tower-based WCF's shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township.
- (13) Historic Buildings or Districts. No tower-based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and / or historic districts list maintained by the Township, or has been designated by the Township as being of historic significance.
- (14) Appearance. Towers shall be galvanized and / or painted with rust-preventive paint of an appropriate color to harmonize with the surroundings.
- (15) Accessory Equipment.
  - (a) Ground-mounted equipment associated to, or connected with, a tower-based WCF shall be underground or enclosed in a structure. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township

Engineer, then the ground mounted equipment shall be screened from public view using stealth technologies, as described above.

- (b) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
  - (c) The telecommunications equipment building shall comply with the required yards and height requirements of the applicable Zoning District for a principal structure. No building may be used as an office or as a broadcast studio. Employees are permitted to visit the site as often as necessary for maintenance and inspection of the building and facility. No building or WCF may be used for long term vehicle storage or for other outdoor storage.
- (16) Additional Antennae. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on tower-based WCFs where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennae without obtaining the prior written approval of the Township.
  - (17) Public Safety Communications. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
  - (18) Radio Frequency Emissions. No tower-based WCF may, by itself or in conjunction with other WCF's, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields", as amended.
  - (19) Noise. Tower-based WCF's shall be operated and maintained so as not to produce noise in excess of applicable noise standards under State law and the Second Class 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.
  - (20) Aviation Safety. Tower-based WCFs shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for tower-based WCF's shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the

tower-based WCF complies with applicable regulations or is exempt from these regulations.

- (21) Access Road. A paved access road, of at least ten feet (10') in width, in an easement of at least twenty feet (20') in width, turnaround space and a minimum of one off-street parking space shall be provided to ensure adequate emergency and service access to tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
- (22) Bond. Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Township Solicitor, in an amount of \$100,000 to assure the faithful performance of the terms and conditions of this Ordinance. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Township.
- (23) License and Insurance. In addition, the applicant shall submit a copy of its current Federal Communications Commission (FCC) license; the name, address and emergency telephone number for the operator of the communications tower or antennae; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the tower-based WCF, antenna, and related facilities.
- (24) Timing of Approval. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF and the Township shall advise the applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.

- (25) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs pursuant to a fee schedule adopted and as amended from time to time by Township Board of Supervisors.
- (26) Nonconforming Uses. Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Ordinance.
- (27) Maintenance. The following maintenance requirements shall apply:
- (a) Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
  - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (28) Inspection. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this Ordinance and any other provisions found within the Township Code or State or Federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (29) Removal. In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
- (a) All unused or abandoned tower-based WCFs and accessory facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (b) If the WCF and/or accessory facility is not removed within twelve (12) months of the cessation of operations at a site. The Township



must approve all replacements of portions of a tower-based WCF previously removed.

- (30) Applicable Codes. Conformance and compliance and continual compliance with all other applicable Township Codes or Ordinances including obtaining and maintaining the required permits, including, but not limited to, IFC permits and inspections for liquid fueled generators.

B. Non-Tower Wireless Communications Facilities

- (1) General Requirements for Non-Tower WCF.

The following regulations shall apply to all non-tower wireless communications facilities, regardless of location:

- (a) Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones outside of the right-of-way subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township. Applicants proposing installations on existing buildings or towers shall submit evidence of agreements and / or easements necessary to provide access to the existing building or tower so that installation and maintenance of the equipment can be accomplished. Non-tower WCFs shall not be permitted within any right-of-way.
- (b) Standard of Design and Care. Any non-tower WCF 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, Pennsylvania Construction Code Act and Regulations and National Electrical Code, and shall not affect pedestrian or vehicular traffic. Design certification from a Pennsylvania registered professional engineer is required to attest that the existing structure can adequately support the proposed equipment installation. Detailed construction and elevation drawings, indicating antenna locations and mounting design, shall be submitted by the applicant. Any WCF 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.
- (c) Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the

engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).

- (d) Public Safety Communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
- (e) Aviation Safety. Non-tower-based WCFs shall comply with all applicable Federal and State laws and regulations concerning aviation safety, and any applicable airport zoning regulations, if any.
- (f) Radio Frequency Emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (g) Historic Buildings. Non-tower WCFs may not be located on a lot where a building or structure that is listed on either the National or Pennsylvania Registers of Historic or which is located in a Historic District.
- (h) Removal.

[1] In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

[a] All abandoned or unused non-tower WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.

[b] If the non-tower WCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Township, the non-tower WCF and/or associated facilities and equipment may be

removed by the Township and the cost of removal assessed against the owner of the WCF.

- [c] Prior to the issuance of permit for construction of a non-tower-based WCF, the applicant shall provide the Township financial security in an amount determined by the Township Engineer for the cost to remove the proposed non-tower-based WCF should it be discontinued and abandoned and the owner fails to remove the WCF in accord with the provisions of this Ordinance. Any costs incurred by the Township in removing the discontinued or abandoned WCF shall be paid from the financial security. If the financial security fails to cover the cost incurred by the Township for removal of the discontinued or abandoned WCF, the owner of the WCF shall be responsible to the Township for the additional costs incurred by the Township.
  
- [2] The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennae.
  
- [3] Any material modification to a wireless communication facility shall require a prior amendment to the original permit or authorization
  
- (i) Development Regulations. Non-tower WCFs shall be co-located on existing structures, such as existing buildings subject to the following conditions:
  - [1] Such WCF does not exceed a maximum height of 125 feet.
  - [2] If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
  - [3] A minimum eight foot (8') high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(j) Design Regulations.

- [1] Non-tower WCFs shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- [2] Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a special exception from the Township's Zoning Hearing Board.
- [3] All non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- [4] Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
- [5] Noncommercial Usage Exemption. The design regulations enumerated in this paragraph shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings
- [6] Replacement Support Structures. Existing above-ground structures may be replaced with structurally hardened, fitted or reinforced support structures so long as the replacement structure is, in the approval authority's discretion, substantially similar to the existing structure being replaced.

(k) Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any non-tower WCF based upon visual and/or land use impact.

(l) Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any

time upon reasonable notice to the operator to ensure such compliance.

- (m) **Timing of Approval.** Within thirty (30) calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. For collocations that substantially change the height of the underlying support structure, the Township shall make its final decision on whether to approve the application within ninety (90) calendar days of receipt of a complete application and shall advise the applicant in writing of such decision. For collocations that do not substantially change the height of the underlying support structure, the Township shall make its final decision on whether to approve the application within sixty (60) calendar days of receipt of a complete application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's applicable ninety (90) or sixty (60) day review period.
- (n) **Permit Fees.** The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF.
- (o) The regulations set forth herein for non-tower wireless communications facilities shall not apply to noncommercial antennas and towers (as defined).
- (p) **Applicable Codes.** Conformance and compliance and continual compliance with all other applicable Township Codes or Ordinances including obtaining and maintaining the required permits, including, but not limited to, IFC permits and inspections for liquid fueled generators

(2) **Substantial Change to Non-Tower WCF.**

In addition to the provisions in Section 726.B.(1), the following regulations shall also apply to all non-tower wireless communication facilities that Substantially Change (see definitions) the physical dimensions of the WCF itself or the wireless support structure to which they are attached:

- (a) **Retention of Experts.** The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and

evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.

- (b) Bond. Prior to the issuance of a permit, the owner of each individual non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in an amount of Twenty Five Thousand Dollars (\$25,000.00) for each individual non-tower WCF, to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.
- (c) License and Insurance. In addition, the applicant shall submit a copy of its current Federal Communications Commission (FCC) license; the name, address and emergency telephone number for the operator of the communications tower or antennae; and a certificate of insurance evidencing general liability coverage in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and property damage coverage in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence covering the communications tower or antenna.

C. Small Wireless Facilities

- (1) Use of right-of-way for small wireless facilities and utility poles with small wireless facilities attached.
  - (a) Permitted in All Zones Subject to Regulations. Small WCFs are permitted in all zones within the right-of-way subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township. Applicants proposing installations on existing poles shall submit evidence of agreements and / or easements necessary to provide access to the existing pole so that installation and maintenance of the equipment can be accomplished.
  - (b) Applicability.--The provisions of this section shall only apply to activities of a wireless provider within the right-of-way to deploy

small wireless facilities and associated new utility poles with small wireless facilities attached.

(c) Right-of-way rates and fees.--Subject to the fee adjustment requirements under section C.4(a), the Township shall have the right to charge an annual fee for the use of the right-of-way. An annual right-of-way fee shall not exceed \$270 per small wireless facility or \$270 per new utility pole with a small wireless facility unless the Township demonstrates all of the following:

[1] The annual right-of-way fee is a reasonable approximation of the municipality's costs to manage the right-of-way.

[2] The municipality's costs under paragraph (c)(1)C.1. are reasonable.

[3] The annual right-of-way fee is nondiscriminatory.

(d) Right of access.—

[1] Under the provisions of this act, in accordance with applicable codes, and with the permission of the owner of the structure, a wireless provider shall have the right to perform the following within the right-of-way:

[a] Collocate.

[b] Replace an existing utility pole or install a new utility pole with attached small wireless facilities.

[2] All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the Township and utilities.

(e) Size limits.—

[1] Each new or modified small wireless facility installed in the right-of-way shall be installed on an existing utility pole or a new utility pole subject to the following.

[a] The installation of a small wireless facility on an existing utility pole shall not extend more than five feet (5') above the existing utility pole.



- [b] If collocation on an existing utility pole cannot be achieved hereunder, a small wireless facility may be installed on a new or replacement utility pole. The maximum permitted height of the facility, which shall include the utility pole and small wireless facility, shall not be taller than 50 feet above ground level.
  
- [2] Subject to the provisions of this act, a wireless provider may collocate or install a new utility pole with small wireless facilities attached that exceeds these height limits by including a height limit variances in the application. Variances shall be processed in accordance with the provisions of the Zoning Ordinance.
  
- (f) Underground district.--A wireless provider shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from placing or installing structures in the right-of-way in an area designated solely for underground or buried cable facilities and utility facilities if the Township:
  - [1] Requires all cable facilities and utility facilities, other than municipal poles and attachments, to be placed underground by a date certain that is three months prior to the submission of the application.
  - [2] Does not prohibit the replacement of municipal poles in the designated area.
  - [3] Provides for a waiver of the underground requirements for the installation of a new utility pole to support small wireless facilities for which a public hearing may be required and with the approval of the property owner allow for a waiver that shall be addressed in a nondiscriminatory manner and in accordance with applicable codes.
  
- (g) Historic district or building.--Except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4) (relating to actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared), the Township may require reasonable, technically feasible, nondiscriminatory and technologically neutral design or concealment measures in a historic district or on historic buildings. Any design or concealment measures may not have the effect of prohibiting any provider's technology or be considered a

part of the small wireless facility for purposes of the size restrictions of small wireless facilities.

- (h) Design guidelines.—The Township may develop objective design guidelines for a small wireless facility regarding the minimization of aesthetic impact in accordance with the following which the Applicant shall comply with or request a modification.
  - (i) Damage and repair.--A wireless provider shall repair all damage to the right-of-way or any other land so disturbed, directly caused by the activities of the wireless provider or the wireless provider's contractors and return the right-of-way in as good of condition as it existed prior to any work being done in the right-of-way by the wireless provider. If the wireless provider fails to make the repairs required by the Township within 30 days after written notice, the Township may perform those repairs and charge the wireless provider the reasonable, documented cost of the repairs plus a penalty not to exceed \$500. The Township may suspend the ability of an Applicant to receive a new permit from the Township until the Applicant has paid the amount assessed for the repair costs and the assessed penalty. The Township may not suspend the ability of an Applicant to receive a new permit that has deposited the amount assessed for the repair costs and the assessed penalty in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
  - (j) Communications services.--The approval of the installation, placement, maintenance or operation of a small wireless facility under this section shall not authorize the provision of any communications services without compliance with all applicable laws or the installation, placement, maintenance or operation of any communications facilities other than wireless facilities and associated utility poles in the right-of-way.
- (2) Permitting process for small wireless facilities and utility poles within right-of-way.
- (a) Applicability.--The provisions of this section shall apply to the Township's permitting of small wireless facilities by a wireless provider or the installation, modification and replacement of utility poles with small wireless facilities attached by a wireless provider within the right-of-way.
  - (b) Review.--An application under this section shall be treated as a permitted use in all areas of the Township, except underground districts in accordance with this Ordinance, and reviewed by

Township staff or appointed officials for conformance with applicable codes. Such applications shall not be subject to discretionary zoning review, including conditional use or special exception requirements.

(c) Permits.—

[1] An Applicant shall submit an application to obtain one or more permits of general applicability to perform the following within the right-of-way:

[a] Collocate, maintain and modify small wireless facilities.

[b] Replace existing utility poles for collocation.

[c] Install new utility poles with attached small wireless facilities.

[2] The Township shall receive applications for collocation or for installation, modification or replacement of utility poles with small wireless facilities attached and process and issue permits, subject to the requirements of applicable codes.

[a] An Applicant shall not be required to provide justification for capacity or radio frequency.

[b] An Applicant shall be required to:

[i] Include documentation with an Application that includes construction and engineering drawings, demonstrates compliance with the criteria specified hereunder and includes all necessary approvals from the pole owner.

[ii] Self-certify that the filing and approval of the application is required by the wireless provider to provide additional capacity or coverage for wireless services.

[iii] Include documentation showing compliance with design guidelines established by the Township.

(d) Completed application.--Within ten (10) business days of receiving an Application, the Township shall determine and notify the

Applicant in writing whether the Application is incomplete. If the Township determines an application is incomplete, it shall advise the Applicant, with specificity, of the missing information. The processing deadline shall restart at zero on the date the Applicant provides the missing information. The Township and Applicant may agree to toll the processing deadline.

- (e) Deadlines.--An Application shall be processed on a nondiscriminatory basis and deemed approved if the Township fails to approve or deny the application within 60 days of receipt of a complete application to collocate and within 90 days of receipt of a complete application to replace an existing utility pole or install a new utility pole with small wireless facilities attached. A permit associated with an application deemed approved under this subsection shall be deemed approved if the municipality fails to approve or deny the permit within seven (7) business days after the date of filing the permit application with the Township unless there is a public safety reason for the delay.

- (f) Denial.—

[1] The Township may deny an Application under this section only if any of the following apply:

- [a] The small wireless facility materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement.
- [b] The small wireless facility fails to comply with applicable codes.
- [c] The small wireless facility fails to comply with the requirements specified under Act 50 of the Commonwealth of Pennsylvania or an amendment thereof.
- [d] The Applicant fails to submit a report by a qualified engineering expert which shows that the small wireless facility will comply with applicable FCC regulations.

- [2] Within the time frame established under subsection (e), the Township shall document the basis for a denial, including the specific provisions of applicable codes on which the denial was based, and send the documentation to the Applicant within five (5) business days of the denial.
- [3] The Applicant may cure the deficiencies identified by the Township and resubmit the application within 30 days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within 30 days of the Application being resubmitted for review or the resubmitted Application shall be deemed approved 30 days after resubmission. Any subsequent review shall be limited to the deficiencies cited in the denial. If the resubmitted Application addresses or changes other sections of the Application that were not previously denied, the municipality shall be given an additional 15 days to review the resubmitted application and may charge an additional fee for the review.
- (g) Consolidated application.--An Applicant seeking to collocate within the Township shall be allowed at the Applicant's discretion to file a consolidated application for collocation of multiple small wireless facilities as follows:
- [1] The consolidated application does not exceed twenty (20) small wireless facilities.
- [2] The denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application.
- [3] A single applicant may not submit more than one consolidated or twenty (20) single applications in a 30-day period. If the Township receives more than one consolidated application or 20 single applications within a 45-day period, the processing deadline shall be extended 15 days in addition to the processing deadline specified under Section C.(2)(e) to allow the municipality to complete its initial review under Section C.(2)(e).
- [4] The following apply:

- [a] For the purpose of counting the number of small wireless facilities each applicant has before the Township at a given time, small wireless facilities and poles that a wireless provider Applicant has requested a third party to deploy and that are included in a pending application by the third party shall be counted as pending requests by the wireless provider applicant.
  
- [b] An Application tolled hereunder shall count towards the total number of applications included in a consolidated application unless the application is withdrawn by the Applicant. As the processing of applications are completed, the Township shall begin processing previously tolled applications in the order in which the tolled applications were submitted, unless the applicant specifies a different order.
  
- (h) Time limit for work.--The proposed collocation, the modification or replacement of a utility pole or the installation of a new utility pole with small wireless facilities attached for which a permit is granted under this section shall be completed within one (1) year of the permit issuance date unless the Township and the Applicant agree in writing to extend the period.
  
- (i) Utility poles.--When applying to install a new utility pole under this Ordinance, the Township may require the wireless provider to demonstrate that it cannot meet the service reliability and functional objectives of the Application by collocating on an existing utility pole or municipal pole instead of installing a new utility pole. The Township may require the wireless provider to self-certify that the wireless provider has made this determination in good faith and to provide a documented summary of the basis for the determination. The wireless provider's determination shall be based on whether the wireless provider can meet the service objectives of the application by collocating on an existing utility pole or municipal pole on which:
  - [1] The wireless provider has the right to collocation.
  - [2] The collocation is technically feasible and would not impose substantial additional cost.
  - [3] The collocation would not obstruct or hinder travel or have a negative impact on public safety.

(j) Replacement of Existing Street Light Poles. Except where street light installation is required hereby above, the following standards apply when replacing an existing street light pole with a combination small WCF and street light pole. Such replacements should only be located where an existing street light pole can be removed and replaced, or at a new location where it has been identified that a street light is necessary. All such replacements shall meet the following standards: (i) replacement street light poles shall be an equal distance from other street light poles based upon the average distance between existing street light poles within the immediate neighborhood; (ii) replacement street light poles shall have at least a 5 year manufacturer's replacement warranty; (iii) replacement street light poles shall be owned by the Township at the Township's discretion; (iv) the centerline of a new small WCF support structure shall be in alignment with existing utility poles where present, or with street trees along the same side of the ROW; (v) pole shall be located a minimum of 12 feet from driveway aprons; (vi) pole shall be sited a minimum of 15 feet away from trees to prevent disturbance within the critical root zone of existing trees having a 6 inch diameter at breast height located in the immediate vicinity.

(k) Approval.--Approval of an Application authorizes the Applicant to:

[1] Collocate on an existing utility pole, modify or replace a utility pole or install a new utility pole with small wireless facilities attached as identified in the initial application.

[2] Subject to the permit requirements and the Applicant's right to terminate at any time, operate and maintain small wireless facilities and any associated equipment on a utility pole covered by the permit for a period of not less than five (5) years, which shall be renewed for two (2) additional five-year periods if the Applicant is in compliance with the criteria set forth in this act or applicable codes consistent with this Ordinance and the Applicant has obtained all necessary consent from the utility pole owner.

(l) Removal of equipment.—

[1] Within 60 days of suspension or revocation of a permit due to noncompliance with this Ordinance or applicable codes consistent herewith, the Applicant shall remove the small wireless facility and any associated equipment, including



the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole, after receiving adequate notice and an opportunity to cure any noncompliance.

- [2] Within 90 days of the end of a permit term or an extension of the permit term, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole.

(m) An Application for maintenance:—

- [1] A municipality shall not require an application for:

- [a] Routine maintenance or repair work.

- [b] The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller and still qualify as a small wireless facility.

- [c] The installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles by or for a communications service provider authorized to occupy the right-of-way, in compliance with the National Electrical Safety Code.

- [2] The Township shall require a permit to perform work within the right-of-way for the activities under paragraph (1) or other applicable subsection for work that involves excavation, closure of a sidewalk or closure of a vehicular lane. Permits shall be subject to the requirements provided herein or applicable codes consistent with this act.

(n) Application fees.--Subject to the fee adjustment requirements under this Ordinance, a municipality shall have the right to charge an application fee for the review of a permit application and plans submitted for the work to be done within the right-of-way. The Township may charge a one-time application fee of up to the following:

- [1] Five hundred dollars for an application seeking approval for no more than five collocated small wireless facilities

and up to \$100 for each collocated small wireless facility beyond five.

[2] One thousand dollars for an application seeking approval of a small wireless facility that requires the installation of a new or replacement utility pole. Permitting process for small wireless facilities and utility poles within right-of-way.

(3) Access to municipal poles within right-of-way.

(a) Applicability.-- The provisions of this section shall apply to activities of the wireless provider within a right-of-way.

(b) Collocation. Collocation on municipal poles using the process required under this Ordinance and applicable codes shall be allowed unless the small wireless facility would cause structural or safety deficiencies to the municipal pole, in which case the municipality and Applicant shall work together for any make-ready work or modifications or replacements that are needed to accommodate the small wireless facility. All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way.

(c) Rates.—A fee shall not be charged to collocate on municipal poles subject to the fee adjustments under section C.(4)(a).

(d) Implementation and make-ready work.—

[1] The Township may charge for make ready work to collocate on a municipal pole.

[2] The Township shall provide a good faith estimate for any make-ready work necessary to enable the municipal pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application.

[3] Make-ready work, including pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the applicant.

[4] The Township shall not require more make-ready work than required to meet applicable codes or industry standards.

- [5] Fees for make-ready work on a nonplacement municipal pole shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including replacement, shall not exceed actual costs or the amount charged to other similarly situated communications service providers for similar work and shall not include any consultant fees or expenses that are charged on a contingency basis.
- (e) Future use.—The Township may reserve space on an existing municipal pole for future public safety or transportation uses in a documented and approved plan as adopted at the time an application is filed. A reservation of space shall not preclude collocation, the replacement of an existing utility pole or the installation of a new utility pole. If the replacement of a municipal pole is necessary to accommodate collocation and the reserved future use, the wireless provider shall pay for the replacement municipal pole and the municipal pole shall accommodate the future use.
- (4) Rate or fee adjustments.—
- (a) If the FCC adjusts its levels for fees for small wireless facilities, a municipality may adjust any impacted rate or fee hereunder, on a pro rata basis, and consistent with the FCC's adjustment.
- (b) If, in a final adjudication not subject to further appeal or to review by the United States Supreme Court, a Federal court reviewing Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, et al., Declaratory Ruling and Third Report and Order, WT Docket No. 17-79 and WC Docket No. 17-84, FCC 18-133 (released September 27, 2018), reverses or repeals the rates outlined in that FCC order, then the monetary caps hereunder may increase 3% annually beginning January 1, 2021, at the discretion of a municipality.
- (5) Indemnification. Except for a wireless provider with an existing agreement to occupy and operate in a right-of-way, a wireless provider shall fully indemnify and hold the Township and its officers, employees and agents harmless against any claims, lawsuits, judgments, costs, liens, expenses or fees or any other damages caused by the act, error or omission of the wireless provider or its officers, agents, employees, directors, contractors or subcontractors while installing, repairing or maintaining small wireless facilities or utility poles within the right-of-way. A wireless provider shall not be required to indemnify for an act of

negligence or willful misconduct by the municipality, its elected and appointed officials, employees and agents.

- (6) Insurance. The Township shall be named as an additional insured on all applicable insurance policies
- (7) General requirements for uses of rights-of-way

The following apply:

- (a) Structures and facilities deployed by a wireless provider under this Ordinance shall be constructed, maintained and located in a manner as to not obstruct, endanger or hinder the usual travel or public safety on a right-of-way, damage or interfere with other utility facilities located within a right-of-way or interfere with the other utility's use of the utility's facilities located or to be located within the right-of-way.
- (b) The construction and maintenance of structures and facilities by the wireless provider shall comply with the 2017 National Electrical Safety Code and all applicable laws, ordinances and regulations for the protection of underground and overhead utility facilities.
- (c) An applicant or the applicant's affiliate shall ensure that a contractor or subcontractor performing construction, reconstruction, demolition, repair or maintenance work on a small wireless facility deployed under this act meets and attests to all of the following requirements:
  - [1] Maintain all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or a local government entity that is necessary to do business or perform applicable work.
  - [2] Maintain compliance with the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, and bonding and liability insurance requirements as specified in the contract for the project.
  - [3] Has not defaulted on a project, declared bankruptcy, been debarred or suspended on a project by the Federal Government, the Commonwealth or a local government entity within the previous three years.

- [4] Has not been convicted of a misdemeanor or felony relating to the performance or operation of the business of the contractor or subcontractor within the previous 10 years.
  - [5] Has completed a minimum of the United States Occupational Safety and Health Administration's 10-hour safety training course or similar training sufficient to prepare workers for any hazards that may be encountered during their work on the small wireless facility.
- (d) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, relocation requirements for public utilities, and related considerations.
  - (e) Any graffiti on the WCF or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
  - (f) Antennae and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
  - (g) Relocation or Removal of Facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances
    - [1] The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way.
    - [2] The operations of the Township or other governmental entity in the right-of-way.
    - [3] Vacation of a street or road or the release of a utility easement.

[4] An emergency as determined by the Township

- (8) Construction of Ordinance. Nothing in this Ordinance shall be construed to impact, modify or supersede any construction standard, engineering practice, tariff provision, collective bargaining agreement, contractual obligation or right, Federal or State law or regulation relating to facilities (defined in 66 Pa.C.S. § 102) or equipment owned or controlled by an electric distribution company (defined in 66 Pa.C.S. § 2803) or its affiliate, a telecommunications carrier (defined in 66 Pa.C.S. § 3012), an electric cooperative or an independent transmission company that is not a wireless provider.

SECTION 15. The Brecknock Township Zoning Ordinance of 1993, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of such Zoning Ordinance upon enactment.

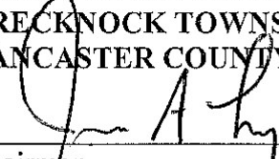
SECTION 16. Repealer. All Ordinances or parts of ordinances inconsistent herewith are hereby repealed.

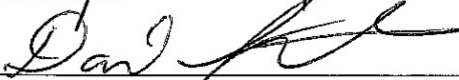
SECTION 17. Severability. If any section, subsection, clause, sentence, paragraph or part of this Ordinance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect, impair or invalidate the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Board of Supervisors that this Ordinance would have been adopted had such provisions not been included herein.

SECTION 18. Effective Date. This Ordinance shall become effective five (5) days after enactment, as provided by law.

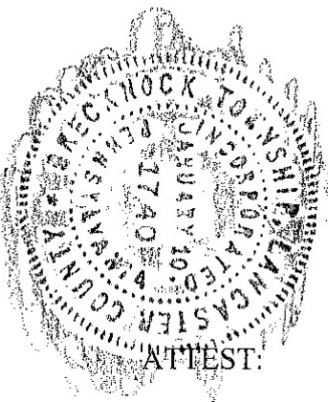
**ENACTED AND ORDAINED** as an Ordinance of Brecknock Township, Lancaster County, Pennsylvania, this 11<sup>th</sup> day of October, 2022.

**BOARD OF SUPERVISORS OF  
BRECKNOCK TOWNSHIP,  
LANCASTER COUNTY, PENNSYLVANIA**

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Vice Chairman

  
\_\_\_\_\_  
Member

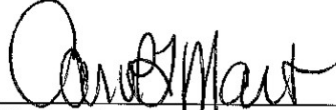


  
Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2022 - 229 adopted by the Board of Supervisors of Brecknock Township, Lancaster County, Pennsylvania at a public meeting held on 10/11, 2022, pursuant to notice as required by law.

Dated: 10/11/22

  
\_\_\_\_\_  
Township Secretary