

2024

AN ORDINANCE

AMENDING CHAPTER 445 OF THE CODE OF ORDINANCES OF THE CITY OF SCRANTON TO PROVIDE FOR THE REGULATION OF WIRELESS COMMUNICATIONS FACILITIES BY THE CITY.

WHEREAS, telecommunication services are expanding and including but not limited to fiber optic cable and internet; and

WHEREAS, broadband internet providers are interested in expanding their services and customer base within the Greater Scranton area for numerous reasons;

WHEREAS, the City of Scranton wants to make sure all homes and businesses have access to high-speed broadband internet; and

WHEREAS, utility law is heavily regulated by the Pennsylvania Utility Commission and many facets of regulation are federally preempted, meaning that the City is prohibited from regulating certain aspects of service provision; and

WHEREAS, the City of Scranton seeks to minimize costs to residential and commercial users, and promote the installation, operation and maintenance methodologies that maximize dependability and resiliency for her residents; and

WHEREAS, the technologies underlying the broadband services contemplated herein are newer and missing from the City of Scranton's current code and body of legislation; and

WHEREAS, time is of the essence due to many broadband service providers being interested in developing their telecommunications network and service in the City of Scranton and are seeking to do so as of this filing.

NOW THEREFORE, BE IT ORDAINED THAT CHAPTER 445, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SCRANTON IS HEREBY AMENDED AS FOLLOWS:

SECTION 1. AMENDMENT OF USE PROVISIONS

Chapter 445, Attachment 1 of the Code of Ordinances of the City of Scranton is hereby amended by removing "Communications tower, commercial" as a use and adding the following uses:

Types of Uses (See definition in Article II)	C-R	R-1/R-1C	R-QA	R-2 & R-2/O	R-3
Tower-Based Wireless Communications Facility	SE	N	N	N	N
Collocated Wireless Communications Facility	P	P	P	P	P
Small Wireless Communications Facility (Inside ROW or Collocated Outside ROW)	P	P	P	P	P
Small Wireless Communications Facility (Outside ROW, Requiring new Wireless Support Structure)	P	N	N	N	N

SECTION 2. AMENDMENT OF USE PROVISIONS

CERTIFIED COPY

[Signature] City Clerk

Introduced in Council on above date and referred to Committee on February 27, 2024

COMMUNITY DEVELOPMENT

[Signature]
City Clerk

Scranton, PA March 12, 2024
Committee on Community Development reports favorably on the within ordinance

[Signature]
VICE CHAIR

SIXTH ORDER:
March 5, 2024

Chapter 445, Attachment 2 of the Code of Ordinances of the City of Scranton is hereby amended by removing "Communications tower, commercial" as a use and adding the following uses:

Types of Uses (See definition in Article II)	C-D	C-N	C-G	I-L	I-G
Tower-Based Wireless Communications Facility	N	N	SE	SE	SE
Collocated Wireless Communications Facility	P	P	P	P	P
Small Wireless Communications Facility (Inside Row or Collocated Outside ROW)	P	P	P	P	P
Small Wireless Communications Facility (Outside ROW, Requiring new Wireless Support Structure)	N	N	P	P	P

SECTION 3. AMENDMENT OF USE PROVISIONS

Chapter 445, Attachment 3 of the Code of Ordinances of the City of Scranton is hereby amended by removing "Communications tower, commercial" and "Commercial communications antennae as an accessory use to the above" as uses and adding the following uses:

Types of Uses (See definition in Article II)	INS-G	INS-L
Tower-Based Wireless Communications Facility	N	N
Collocated Wireless Communications Facility	P	P
Small Wireless Communications Facility (Inside ROW or Collocated Outside ROW)	P	P
Small Wireless Communications Facility (Outside ROW, Requiring new Wireless Support Structure)	N	N

SECTION 4. AMENDMENT OF DEFINITIONS.

Section 445-23 "Terms defined" of the Code of Ordinances of the City of Scranton is hereby amended by deleting the definition of "Commercial Communications Antennae" and adding the following definitions:

- A. *Accessory Equipment* — Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- B. *Antenna* — An apparatus designed for the purpose of emitting radiofrequency radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission regulations, for the provision of wireless service and any commingled information services.
- C. *City Code* — The Code of Ordinances of the City of Scranton, as amended.
- D. *Collocate or Collocation* — The mounting of one or more WCFs, including antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.
- E. *Collocated Wireless Communications Facility (Collocated WCF)* — Wireless communications facilities that are attached to existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new or replacement wireless support structure.
- F. *Communications Equipment Building* — An unmanned building or cabinet containing communications equipment required for the operation of wireless communications facilities.
- G. *Eligible Facilities Request* — Any request for modification of an existing WCF that does not substantially change the physical dimensions of such WCF, involving:
 - (i) Collocation of new transmission equipment;

(ii) Removal of transmission equipment; or

(iii) Replacement of transmission equipment.

- H. *Emergency* — A condition that constitutes a clear and immediate danger to the health, welfare, or safety of the public.
- I. *Equipment Compound* — An area surrounding or adjacent to a wireless support structure within which base stations, power supplies, or accessory equipment are located.
- J. *Modification or Modify* — The improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.
- K. *Replacement of a Wireless Communications Facility (Replacement of a WCF)* — The replacement of existing wireless communications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.
- L. *Right-of-Way* — The area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property. The term does not include a Federal interstate highway.
- M. *Small Wireless Communications Facility (Small WCF)* — A wireless communications facility that meets the following qualifications:
- (a) Each Antenna associated with the wireless communications facility is no more than three cubic feet in volume.
 - (b) The volume of all other equipment associated with the wireless communications facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet.
- N. *Stealth Technology* — Camouflaging methods applied to wireless communications facilities and accessory equipment 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 antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
- O. *Substantially Change or Substantial Change* — A modification substantially changes the physical dimensions of a support structure if it meets the criteria established by 47 CFR §1.6100.
- P. *Technically Feasible* — By virtue of engineering or spectrum usage, the proposed placement for a wireless communications facility or its design or site location can be implemented without a material reduction in the functionality of the wireless communications facility.
- Q. *Tower-Based Wireless Communications Facility (Tower-Based WCF)* — Any new or replacement wireless support structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying antenna and accessory equipment.

- R. *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.
- S. *Wireless Communications Facility (WCF)* — An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- T. *Wireless Communications Facility Applicant (WCF Applicant)* — Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other City-owned land or property.
- U. *Wireless Support Structure* — A freestanding structure that could support the placement or installation of a wireless communications facility if approved by the City, regardless of whether such structure currently supports a WCF.

SECTION 5. REPEALER OF CERTAIN PROVISIONS

Section 445-34M of the City Code is hereby repealed in its entirety.

SECTION 6. AMENDMENT OF CHAPTER 445, ZONING

Chapter 445 of the Code of Ordinances of the City of Scranton is hereby amended by adding a new Section 445-81, entitled and provided for as follows:

Section 445-81: Wireless Communications Facilities

- A. General requirements for all Wireless Communications Facilities. The following regulations shall apply to all Wireless Communications Facilities:
 - (1) Applicability. The requirements of this Section 445-81 shall apply to all Wireless Communications Facilities in the City.
 - (2) Noncommercial usage exemption. City citizens utilizing satellite dishes and antennas for the purpose of maintaining amateur radio, television, phone and/or Internet connections at their respective residences shall be exempt from the requirements of this Section 445-81.
 - (3) Standard of care.
 - (a) All WCFs shall be designed, constructed, and maintained in strict compliance with the applicable requirements of the FAA, FCC, and any other federal, state or local regulatory authority, and all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. 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 damage any property in the City.
 - (b) If such standards or regulations are changed, the owner of the WCF shall bring such WCF into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for revocation of the zoning permit for the WCF.
 - (c) All Facilities shall comply with the applicable requirements of the Americans with Disabilities Act ("ADA"), and every other local, state, and federal law and regulation, as well as City construction and sidewalk clearance standards, city ordinance, and state

and federal laws and regulations to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health or safety.

- (4) Engineer inspection. Any information of an engineering nature that is submitted by the WCF Applicant, whether civil, mechanical, structural, or electrical, shall be certified by a licensed professional engineer.
- (5) Eligible Facilities Requests. WCF Applicants proposing a modification to an existing WCF that constitutes an Eligible Facilities Request shall be required only to obtain a building permit from the City Zoning Officer. In order to be considered for such permit, the WCF Applicant must submit a permit application to the City Zoning Officer in accordance with applicable permit policies and procedures. Such permit application shall clearly state that the proposed modification constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit application shall clearly detail all dimensional changes being made to the WCF and Wireless Support Structure.
- (6) Wind and ice. All WCFs shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- (7) Aviation safety. WCFs shall comply with all applicable federal and state laws and regulations concerning aviation safety.
- (8) Interference. All WCFs shall comply with applicable FCC regulations regarding radiofrequency interference.
- (9) Signs. All WCFs shall post a sign in a readily visible location clearly identifying the owner of the WCF and the name and phone number of a party to contact in the event of an Emergency. The only other signage permitted on the WCF shall be those required by the FCC or any other federal or state agency. Such signage shall be updated as immediately as is feasible in the event of a change in ownership of the WCF.
- (10) Radio frequency emissions. Radio Frequency Field Warning Signs are required at each site where workers or the general public may be exposed to RF emissions in levels above those deemed safe.
- (11) Noise. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and Chapter 317 of the City Code, except in Emergencies requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only as permitted by the City.
- (12) Third-party permission. Where a proposed WCF or any part thereof will be located on a property or structure owned by a party other than the WCF Applicant, the WCF Applicant shall present documentation to the City that the owner of the property has granted an easement or other property right to the WCF Applicant permitting construction of the proposed WCF.
- (13) Permit fees. The City may assess appropriate and reasonable permit fees directly related to the City's actual costs in reviewing and processing the application for approval of a WCF. Such permit fees shall be established by the City fee schedule, and may be amended by the City Council.
- (14) Retention of experts. The City may hire any consultant(s) and/or expert(s) necessary to assist the City in reviewing and evaluating the application for approval of a Collocated WCF or Tower-Based WCF and, once approved, in reviewing and evaluating any potential

violations of the terms and conditions of these WCF provisions. The WCF Applicant and/or owner of the WCF shall reimburse the City for all costs of the City's consultant(s) in providing expert evaluation and consultation in connection with these activities.

(15) Abandonment; Removal. In the event that use of a WCF is to be discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued. A WCF not operated for a period of six (6) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:

- (a) All abandoned or unused WCFs and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the City, unless a time extension is approved by the City.
- (b) If the WCF or Accessory Equipment is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the City, the WCF and/or Accessory Equipment may be removed by the City and the cost of removal assessed against the owner of the WCF regardless of the owner's or operator's intent to operate the WCF in the future.
- (c) Where there are two or more users of a single WCF, this provision shall not become effective until all users have terminated use of the WCF for a period of six (6) months.

(16) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- (a) The 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 WCF in order to promote the safety and security of the City's residents.

(17) Inspection. The City and/or its designee reserves the right to inspect any WCF to ensure compliance with the provisions of this section and any other provisions found within the City Code or state or federal law.

(18) Timeframes for Review. The following table details the applicable timeframes for review of each type of WCF application:

Type of WCF Application	Notice of Incompleteness	Final Decision
Collocated WCF	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 total calendar days from receipt of initial application.
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from receipt of initial application.
Small WCF (Collocated)	10 business days from receipt of initial or supplemental application.	60 total calendar days from receipt of initial application.
Small WCF (New or replacement Wireless Support Structure)	10 business days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.

Tower-Based WCF	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 total calendar days from receipt of initial application.
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B. Specific requirements for Collocated Wireless Communications Facilities. The following regulations shall apply to Collocated WCFs that do not meet the definition of a Small WCF:

(1) Location requirements. Collocated WCFs shall be permitted outside the public rights-of-way in all zoning districts as a permitted use.

(2) Application requirements. Applications for Collocated WCFs shall include the following:

(a) The name and contact information, including phone number, for both the WCF Applicant and, if different, the owner of the proposed Collocated WCF.

The City reserves the right to deny an application for failure to provide contact information (including but not limited to phone number and email address) that allows the City and/or its designee to directly communicate with a representative in live time and as appropriate during business hours. Further, it is the duty of the permittee to update this information within three business days with the City should a contact's information change and/or should the contact leave or change positions thereafter. Failure to comply may result in adverse action and/or revocation of a permit.

(b) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Collocated WCF, and a certification that the WCF Applicant has included all information required by the City Code, signed by a representative of the WCF Applicant.

(c) A site plan, drawn to scale, showing property boundaries, power location, total height of the Collocated WCF, the entirety of the structure upon which the Collocated WCF will be Collocated, and Antenna and Accessory Equipment dimensions and locations.

(d) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Collocated WCF.

(e) If the Collocated WCF is proposed for location on a Wireless Support Structure that currently supports existing WCFs or other attachments, the depiction shall show the location and dimensions of all such attachments.

(f) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Collocated WCF.

(g) An aerial photograph of the proposed site showing the area within 500 feet of the Collocated WCF. The aerial photograph shall identify all structures within such radius.

(h) Photo simulations depicting the Collocated WCF from at least two (2) locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Collocated WCF.

(i) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Collocated WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.

(j) A report by a qualified engineering expert which shows that the Collocated WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

(k) Written certification and confirmation that the applicant/service provider consulted with local authorities as to accessibility of service, especially if a tower will be shut down for maintenance and may interrupt 911/emergency services communications, including but not limited to the City of Scranton Police Department and Lackawanna County 911 Call Center. .

(l) All application fees required by the City as detailed in the City fee schedule.

(3) Development regulations.

(a) Collocated WCFs shall not be located on any single-family dwelling, two-family dwelling, or residential accessory structure.

(b) Collocated WCFs shall not be located in the right-of-way.

(c) A Collocated WCF shall be permitted to exceed the preexisting height of the structure upon which the Collocated WCF is attached by no more than ten (10) feet.

(d) If a Communications Equipment Building is proposed as part of the Collocated WCF, the Communications Equipment Building shall be subject to the height and setback requirements of the underlying zoning district.

(e) All Communications Equipment Buildings located at ground level shall be enclosed by a chain link or other similar security type fence at least six (6) feet in height.

(f) Collocated 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 City.

(4) Removal, replacement, modification. The removal, replacement or modification of Collocated WCFs and/or Accessory Equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such removal, replacement or modification does not Substantially Change the dimensions of the underlying support structure. Any modification that constitutes a Substantial Change to a WCF shall require a prior amendment to the original permit or authorization.

(5) Historic buildings. No Collocated WCF may be located on a property that is listed on the National or Pennsylvania Registers of Historic Places.

C. Specific requirements for Tower-Based Wireless Communications Facilities outside the rights-of-way. The following regulations shall apply to all Tower-Based Wireless Communications Facilities located outside the rights-of-way that do not meet the definition of a Small WCF:

(1) Location.

(a) Tower-Based WCFs may be located outside the rights-of-way by special exception in the following zoning districts:

[1] C-G General Commercial District

[2] I-L Light Industrial District

[3] I-G General Industrial/Commercial District

[4] C-R Conservation – Residential District

(2) Application requirements.

- (a) A WCF Applicant proposing a new Tower-Based WCF shall submit a special exception application to the Zoning Hearing Board in accordance with this Section 445-81.
- (b) An application for a Tower-Based WCF shall include the following information:
- [1] The name and contact information, including phone number, for both the WCF Applicant and the owner of the proposed Tower-Based WCF.
 - [a] The City reserves the right to deny an application for failure to provide contact information (including but not limited to phone number and email address) that allows the City and/or its designee to directly communicate with a representative in live time and as-appropriate during business hours. Further, it is the duty of the permittee to update this information within three business days with the City should a contact's information change and/or should the contact leave or change positions thereafter. Failure to comply may result in adverse action and/or revocation of a permit.
 - [2] A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Tower-Based WCF, and a certification that the WCF Applicant has included all information required by the City Code, signed by a representative of the WCF Applicant.
 - [3] A site plan, drawn to scale, showing property boundaries, power location, total height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.
 - [4] The special exception application shall include aerial photographs of the area within a ¼ mile radius of the proposed Tower-Based WCF and identify all existing WCFs and potential Collocation opportunities in that area.
 - [5] The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Tower-Based WCF.
 - [6] Photo simulations depicting the Tower-Based WCF from at least two (2) locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Tower-Based WCF.
 - [7] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Tower-Based WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
 - [8] Documentation showing that the owner of the property has granted an easement, if necessary, for the proposed WCF and that vehicular access will be provided to the facility, if the Tower-Based WCF is proposed for location on a property that is not owned by the WCF Applicant.
 - [9] Documentation demonstrating that the proposed Tower-Based WCF complies with all state and federal laws and regulations concerning aviation safety.
 - [10] A written commitment that the WCF Applicant will allow other service providers to Collocate Antennas on Tower-Based WCFs where technically and economically feasible.

[11] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Tower-Based WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.

[12] A report by a qualified engineering expert which shows that the Tower-Based WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

[13] A land development plan for each proposed new Tower-Based WCF, and a note will be made on that plan that neither the owner of the land nor the operator of the Tower-Based WCF will prohibit or cause to prohibit the Collocation of additional Antennas on the Wireless Support Structure.

[14] All application fees required by the City as detailed in the City fee schedule.

(3) Notice. Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. Such notice shall be provided a minimum of ten (10) days in advance of such public hearing. The WCF Applicant shall provide proof of the notification to the City.

(4) Collocation and siting. An application for a new Tower-Based WCF shall not be approved unless the City finds that the Antenna and Accessory Equipment planned for the proposed Tower-Based WCF cannot be Collocated on an existing or approved structure or building or on City property. The Zoning Hearing Board may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing structure as set forth in this section. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings and WCFs within a 1/4 of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings and WCFs, and was denied for one of the following reasons:

- (a) The proposed Antenna and Accessory Equipment would exceed the structural capacity of the existing building, structure or WCF, and its reinforcement cannot be accomplished at a reasonable cost.
- (b) The proposed Antenna and Accessory Equipment would cause radio frequency interference with other existing equipment for that existing building, structure or WCF, and the interference cannot be prevented at a reasonable cost.
- (c) Such existing buildings, structures or WCFs do not have adequate location, space, access or height to accommodate the proposed Antenna and Accessory Equipment or to allow it to perform its intended function.
- (d) A commercially reasonable agreement could not be reached with the owner of such building, structure or WCF.

(5) Development regulations.

- (a) Tower-based WCFs shall not be located in, or within 50 feet of an area in which utilities are primarily located underground.
- (b) Tower-based WCFs shall not be located in the right-of-way.
- (c) The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed height of the Tower-Based WCF, unless the WCF Applicant shows to the satisfaction of the Zoning Hearing Board that the proposed Tower-Based WCF has been designed in such a manner that a lesser setback will have no negative effects on public safety.

(6) 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. In addition to the other design requirements enumerated in this section, the application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the City.

(b) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennas and comparable Antennas for future users.

(c) The Tower-Based WCF may be equipped with an anti-climbing device, as approved by the manufacturer.

(7) Surrounding environs. 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.

(8) Fence/screen. All Tower-Based WCFs, Accessory Equipment and Communications Equipment Buildings shall be enclosed by a chain link or other similar security type fence at least eight (8) feet in height. Tower-Based WCFs shall also be buffered by evergreen screening or preserved woods in accordance with the requirements of Section 445-74 of the City Code.

(9) Permit required for modifications. To the extent permissible under applicable state and federal law, any WCF Applicant proposing the modification of an existing Tower-Based WCF shall first obtain the applicable permit from the City Zoning Officer, in accordance with the City's permitting practices.

(10) Additional antennas. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the City with a written commitment that it will allow other service providers to Collocate Antennas on Tower-Based WCFs where Technically Feasible. The owner of a Tower-Based WCF shall not install any additional Antennas without obtaining the prior written approval of the City.

(11) Height.

(a) Tower-Based WCFs shall not exceed 150 feet in height, as measured from ground level at the base of the Tower-Based WCF to the highest point on the Tower-Based WCF.

(b) In authorizing the height of a Tower-Based WCF, the City may require that the WCF Applicant demonstrate that the height of the Tower-Based WCF is no greater than the minimum height Technically Feasible for the operation of the WCF.

(12) Communications Equipment Buildings. Any Communications Equipment Building associated with a Tower-Based WCF will be subject to the height and setback requirements of the underlying zoning district.

(13) Historic buildings or districts. No Tower-Based WCF may be located on a property that is listed on the National or Pennsylvania Registers of Historic Places.

(14) Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the City Manager.

(15) 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 chapter.

(16) FCC license. Each person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, if applicable, including the name, address and emergency telephone number for the operator of the facility.

D. Specific requirements for Small Wireless Communications Facilities. The following regulations shall apply to all Small Wireless Communications Facilities:

(1) Location Requirements.

(a) Small WCFs inside the rights-of-way are subject to the requirements of Chapter 349 of the City Code.

(b) Small WCFs that are Collocated on existing structures outside the rights-of-way shall be a permitted use in all City zoning districts, subject to the requirements of this Section 445-81 and generally applicable permitting as required by the City Code.

(c) Small WCFs requiring the installation of a new Wireless Support Structure shall be a permitted use in the following zoning districts, subject to the requirements of this Section 445-81 and generally applicable permitting as required by the City Code:

[1] C-G General Commercial District

[2] I-L Light Industrial District

[3] I-G General Industrial/Commercial District

[4] C-R Conservation -- Residential District

(2) Application Requirements.

(a) Applications for Small WCFs shall be submitted to the City Zoning Officer.

(b) Applications for Small WCFs shall include the following:

[1] The name and contact information, including phone number, for both the WCF Applicant and the owner of the proposed Small WCF.

[2] A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Small WCF, and a certification that the WCF Applicant has included all information required by the City Code, signed by a representative of the WCF Applicant.

[3] A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Small WCF.

[a] If the Small WCF is proposed for location on an existing structure or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.

[b] If installation of a new or replacement Wireless Support Structure is being proposed, the depiction shall include the color, dimensions, material and type of Wireless Support Structure proposed.

[4] The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small WCF.

- [5] An aerial photograph of the proposed site showing the area within 500 feet of the Small WCF. The aerial photograph shall identify all structures within such radius.
- [6] Photo simulations depicting the Small WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Small WCF.
- [7] If the proposed Small WCF will be located on a property or structure owned by a party other than the WCF Applicant, proof of the WCF Applicant having obtained an easement or other property right from the property owner allowing for construction of the proposed WCF.
- [8] A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Small WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
- [9] A report by a qualified engineering expert which shows that the Small WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
- [10] Proof of compliance with all applicable requirements of this Section 445-81.
- [11] All application fees required by the City as detailed in the City fee schedule.

(3) Denial and resubmission.

- (a) If the City denies an application for a Small WCF, the City shall provide the WCF Applicant with written documentation of the basis for denial, including the specific provisions of the City Code on which the denial was based, within five (5) business days of the denial.
 - (b) The WCF Applicant may cure the deficiencies identified by the City and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The City shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.
- (4) Minimum Setback. The minimum distance between the base of a Small WCF that require the installation of a new Wireless Support Structure and any adjoining property line or street right-of-way line shall equal 110% of the proposed height of the Small WCF, unless the WCF Applicant shows to the satisfaction of the City Code Enforcement Officer that the proposed Small WCF has been designed in such a manner that a lesser setback will have no negative effects on public safety.
 - (5) Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the City.
 - (6) Design standards. All Small WCFs in the City shall comply with the requirements of the City *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the City Department of Administration.
 - (7) Obsolete equipment. As part of the construction, modification or replacement of a Small WCF, the WCF Applicant shall remove any obsolete or abandoned equipment from the structure upon which the Small WCF will be attached.
 - (8) Historic buildings or districts. No Small WCF may be located on a property that is listed on the National or Pennsylvania Registers of Historic Places.

SECTION 7. MISCELLANEOUS.

A. **Police powers.** The City, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen, or impair the lawful police powers vested in the City under applicable federal, state and local laws and regulations.

B. **Previous Ordinances.** Any Ordinance, or part of any Ordinance, conflicting with this Ordinance is hereby repealed insofar as the same effects this Ordinance.

C. **Severability.** If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.

D. **Effective Date.** This Ordinance shall become effective immediately upon enactment by the Council of the City of Scranton.

SECTION 8. If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decisions shall not affect any other section, clause, provision, or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance of any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 9. This Ordinance shall become effective immediately upon approval.

SECTION 10. All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 11. This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of the Legislature, April 13, 1971, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", and any other applicable law arising under the laws of the State and Pennsylvania.

Passed by the Council

March 12, 2024

Receiving the Affirmative votes of Council Persons

~~BING, SCHUSTER, ROTHCHILD, MCANDREW, SMURL~~

Negative None

[Signature]

President

Approved 3/13/2024

[Signature] Mayor

[Signature] City Clerk

Clified Copy