

**TOWNSHIP OF LIGONIER
WESTMORELAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2019-01

AN ORDINANCE OF THE TOWNSHIP OF LIGONIER, WESTMORELAND COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE LIGONIER TOWNSHIP ZONING ORDINANCE; PROVIDING FOR PURPOSES RELATED TO THE ADOPTION OF THE AMENDMENTS; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES AND NON-TOWER WIRELESS COMMUNICATION FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of the Township of Ligonier, Westmoreland County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION I. Purposes

A. Purposes.

- (1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Ligonier Township (referred to herein as the “Township”). While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse effects of such facilities through the standards set forth in the following provisions.
- (2) By enacting these provisions, the Township intends to:
 - (a) Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision of necessary services;
 - (b) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;

- (c) Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
- (d) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, small wireless communications facilities, cable Wi-Fi and other wireless communications facilities;
- (e) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services collocate their commercial communications antennas and related facilities on existing towers;
- (f) Promote the health, safety and welfare of the Township's residents.

SECTION II. Amendment to Article XXI, Definitions and Word Usage

Article XXI of the Ligonier Township Zoning Ordinance is hereby amended by repealing the definitions of “Antenna,” “Communications Antenna,” “Communications Equipment Building,” “Communications Tower,” “Monopole,” “Non-Tower WCF,” and “Wireless Support Structure” in their entirety. Article XXI of the Zoning Ordinance is hereby amended by adding the following definitions to the “Definitions and Word Usage” section:

1. *Accessory Equipment*—any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term “Accessory Equipment” includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
2. *Antenna* — an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.
3. *Collocation*—the mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.
4. *Distributed Antenna System (DAS)*—network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.
5. *Emergency*—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.

6. *Equipment Compound*—an area surrounding or adjacent to a wireless support structure within which base stations, power supplies, or accessory equipment are located.
7. *FCC*—Federal Communications Commission.
8. *Height of a Tower-Based WCF* - the vertical distance measured from the ground level, including any base pad, to the highest point on a tower-based WCF, including antennae mounted on the tower and any other appurtenances.
9. *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.
10. *Non-Tower Wireless Communications Facility (Non-Tower WCF)*—Wireless communications facilities located or collocated on 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 tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.
11. *Person*—individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania, provided that “Person” does not include or apply to the Township, or to any department or agency of the Township.
12. *Pole Facility* – A wireless communications facility located in the public rights-of-way with a support structure consisting of a single new utility pole installed for the primary purpose of supporting one or more WCF.
13. *Replacement* -- 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.
14. *Small Wireless Communications Facility* -- A wireless communications facility that meets the following criteria:

(1) The structure on which antenna facilities are mounted—

(i) is 50 feet or less in height, or

(ii) is no more than 10 percent taller than other adjacent structures, or

(iii) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

(2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and

(3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume.

(4) The facilities do not require antenna structure registration under 47 CFR Part 17;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

15. *Substantially Change or Substantial Change* - A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(i) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

(2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (4) It entails any excavation or deployment outside the current site;
- (5) It would defeat the concealment elements of the eligible support structure; or
- (6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in § 1.40001(b)(7)(i) through (iv).

16. *WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)*

17. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

18. *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 right-of-way or other Township owned land or property.

19. *Wireless Support Structure*—a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

SECTION III: REPEALER AND ADOPTION OF NEW WIRELESS COMMUNICATIONS FACILITIES PROVISIONS

Sections 20-7(B) and 20-7(C) of the Ligonier Township zoning ordinance are hereby repealed in their entirety and replaced with a new Section 20-7(B) entitled and provided for as follows:

Wireless Communications Facilities

§20-7(B) Wireless Communications Facilities

A. General and Specific Requirements for Non-Tower Wireless Communications Facilities

- 1. The following regulations shall apply to all Non-Tower WCF:

- (a) Permitted in all zones subject to regulations. Non-Tower WCF are permitted in all zones subject to the restrictions and conditions prescribed below and subject to generally applicable permitting by the Township.
- (b) Eligible facilities requests. WCF Applicants proposing the Collocation of a Non-Tower WCF that does not Substantially Change the physical dimensions of the Wireless Support Structure to which they are attached shall obtain a building permit from the Township Building Inspector or Codes Administrator. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.
- (c) Non-commercial usage exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and Antennae for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this 20-7(B).
- (d) Non-conforming Wireless Support Structures. Non-Tower WCF shall be permitted to collocate upon non-conforming Tower-Based WCF and other non-conforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.
- (e) Prohibited on Certain Structures. No Non-Tower WCF shall be located on single-family detached residences, single-family attached residences, semi-detached residences, or duplexes.
- (f) Conditional Use Authorization Required. Any WCF Applicant proposing the construction of a new Non-Tower WCF or the Substantial Change of an existing Non-Tower WCF, shall first obtain conditional use authorization from the Township Board of Supervisors. The conditional use application shall demonstrate that the proposed facility complies with all applicable provisions in the Ligonier Township Zoning Ordinance.
- (g) Standard of 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, National Electrical Code, or to the 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 any property in the Township.
- (h) Wind and ice. All Non-Tower WCF 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.

- (i) Aviation safety. Non-Tower WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (j) Public safety communications. Non-Tower WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (k) Radio frequency emissions. A Non-Tower WCF shall not, 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.
- (l) Development Regulations. Non-Tower WCF shall be Collocated on existing structures, such as existing buildings or Tower-Based WCF, subject to the following conditions:
 - 1. The total height of any Wireless Support Structure and mounted WCF shall not exceed twenty (20) feet above the maximum height permitted in the underlying zoning district.
 - 2. In accordance with industry standards, all Non-Tower WCF Applicants must submit documentation to the Township justifying the total height of the WCF.
 - 3. If the WCF Applicant proposes to locate the Accessory Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
 - 4. A security fence with a minimum height of six (6) feet 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.
- (m) Design Regulations. Non-Tower WCF shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology utilized by the WCF Applicant shall be subject to the approval of the Township.
- (n) Removal, Replacement and Substantial Change.

1. The removal and Replacement of Non-Tower WCF and/or Accessory Equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not Substantially Change the overall height of the WCF or increase the number of Antennae.
 2. Any Substantial Change to a WCF shall require notice to be provided to the Township Zoning Officer, and possible supplemental permit approval as determined by the Township Zoning Officer.
- (o) Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning 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 lease area of any property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (p) Removal. In the event that use of a Non-Tower WCF is 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 WCF, or portions of WCF, shall be removed as follows:
1. All abandoned or unused WCFs and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site unless a time extension is approved by the Township.
 2. 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 Township, the 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.
- (q) Insurance. Each Person that owns or operates a Non-Tower WCF shall annually provide the Township with 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 Non-Tower WCF.
- (r) Indemnification. Each Person that owns or operates a Non-Tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Non-Tower WCF. Each Person that owns or operates a Non-Tower WCF shall defend any actions or proceedings against the Township in which it is claimed that personal

injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Non-Tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

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

1. The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or Emergency repair.
2. Such maintenance shall be performed to ensure compliance with applicable structural safety standards and radio frequency emissions regulations.
3. All maintenance activities shall conform to industry maintenance standards.

(t) Timing of Approval.

1. Within ninety (90) days of receipt of a complete application for a Non-Tower WCF on a preexisting Wireless Support Structure that Substantially Changes the Wireless Support Structure to which it is attached, the Township Board of Supervisors shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
2. Within sixty (60) days of receipt of a complete application for a Non-Tower WCF on a preexisting Wireless Support Structure that does not Substantially Change the Wireless Support Structure to which it is attached, the Township Zoning Officer shall issue the required building and zoning permits authorizing construction of the WCF. All applications for such WCF shall designate that the proposed WCF meets the requirements of an Eligible Facilities Request.

(u) Historic Buildings. No Non-Tower WCF may be located within two hundred fifty (250) feet of any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Township, unless the WCF Applicant provides evidence that compliance with such requirement will materially inhibit the provision of Wireless service.

(v) 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, as well as related inspection,

monitoring and related costs. Such permit fees shall be established by the Township Fee Schedule and shall comply with the applicable requirements of the FCC.

2. Regulations Applicable to all Non-Tower WCF located in the Public Rights-of-Way. In addition to the applicable Non-Tower WCF provisions listed in Section 20-7(B)(A)(1), the following regulations shall apply to Non-Tower WCF located in the public Rights-of-Way:

- (a) Design Requirements:

1. WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the least visibly intrusive equipment feasible.
2. Antenna and Accessory Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

- (b) Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

- (c) Equipment Location. All Accessory Equipment shall be mounted on the Wireless Support Structure to which the Non-Tower WCF is attached. If the it is not technically feasible to mount the Accessory Equipment on the Wireless Support Structure, then such Accessory Equipment shall be located underground or, if undergrounding is demonstrated to be unfeasible, shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township Board of Supervisors. In addition:

1. In no case shall ground-mounted Accessory Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb, within four (4) feet of the edge of the cartway, or within an easement extending onto a privately-owned lot;
2. Ground-mounted Accessory Equipment that cannot be placed underground shall be screened from surrounding views, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township Board of Supervisors. Ground-mounted

Accessory Equipment shall be screened, when possible, by utilizing existing structures.

3. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township Board of Supervisors. The WCF owner shall be solely responsible for this requirement.
 4. Any graffiti on any Accessory Equipment shall be removed within thirty (30) days upon notification by the Township at the sole expense of the owner.
 5. Any proposed underground vault related to Non-Tower WCF shall be reviewed and approved by the Township Board of Supervisors.
 6. Accessory equipment attached to the Wireless Support Structure shall have a minimum of eight (8) feet of vertical clearance above finished grade.
- (d) Relocation or Removal of Facilities. Within ninety (90) 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; or
 4. An Emergency as determined by the Township.
- (e) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Non-Tower WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each Non-Tower WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall be established by the Township Fee Schedule and shall comply with the applicable requirements of the FCC.

B. General and Specific Requirements for Tower-Based Wireless Communications Facilities and Pole Facilities.

1. The following regulations shall apply to all Tower-Based Wireless Communications and Pole Facilities that do not meet the definition of a Small WCF.

(a) Standard of Care. Any Tower-Based WCF or Pole Facility 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, National Electrical Code, the Pennsylvania Uniform Construction Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Tower-Based WCF or Pole Facility 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.

(b) Conditional Use Authorization Required. Tower-Based WCF and Pole Facilities are permitted by conditional use and at a height necessary to satisfy their function in the WCF Applicant's wireless communications system, subject to the requirements of this Section 20-7(B)(B).

1. Upon submission of an application for a Tower-Based WCF or Pole Facility and the scheduling of the public hearing upon the application, the WCF Applicant shall send via First Class Mail notice to all owners of every property within three hundred (300) feet of the proposed facility, advising of the subject matter and date of such hearing. Such notice shall be sent ten (10) days in advance of any such hearing. The WCF Applicant shall provide proof of the notification to the Township Board of Supervisors along with the list of return receipts received.
2. The conditional use application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.
3. The conditional use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF or Pole Facility complies with all state and federal laws and regulations concerning aviation safety.

4. Where the Tower-Based WCF or Pole Facility is located on a property that is not owned by the WCF Applicant, the WCF Applicant shall present documentation to Township Board of Supervisors that the owner of the property has granted an easement or other property right, if necessary, for the proposed WCF and that vehicular access will be provided to the facility.
5. Engineer Inspection. Prior to the Township Zoning Officer's issuance of a zoning permit authorizing construction and erection of a Tower-Based WCF or Pole Facility, a structural engineer licensed in the Commonwealth of Pennsylvania shall issue to the Township Zoning Officer a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the conditional hearings or at a minimum be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.
6. Collocation and siting. An application for a new Tower-Based WCF or Pole Facility shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. Township Board of Supervisors may deny an application to construct a new Tower-Based WCF or Pole Facility if the WCF Applicant has not made a good faith effort to mount a Non-Tower WCF on an existing structure. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within the search radius of the site proposed, sought permission to install a Non-Tower WCF on those structures, buildings, and towers and was denied for one of the following reasons:
 - [a] The proposed Non-Tower WCF would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
 - [b] The proposed Non-Tower WCF would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - [c] Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed 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 tower.

7. The conditional use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF or Pole Facility complies with all applicable provisions of this Chapter.
- (c) Wind and ice. Any Tower-Based WCF or Pole Facility 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 department of the Telecommunications Industry Association (ANSI/TIA-222, as amended).
- (d) Public Safety Communications. No Tower-Based WCF or Pole Facility shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (e) Maintenance. The following maintenance requirements shall apply:
1. Any Tower-Based WCF or Pole Facility shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.
 2. Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents and utilize industry standard technology for preventing failures and accidents.
- (f) Radio Frequency Emissions. A Tower-Based WCF or Pole Facility shall not, 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. The owner or operator of such WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Township Secretary on an annual basis.
- (g) Historic Buildings. No Tower-Based WCF or Pole Facility may be located within two hundred fifty (250) feet of any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Township, unless the WCF Applicant provides evidence that compliance with such requirement will materially inhibit the provision of Wireless service.
- (h) Signs. All Tower-Based WCFs or Pole Facilities shall post a sign in a readily visible location identifying 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.

- (i) Lighting. No Tower-Based WCF or Pole Facility 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 Township Secretary.
- (j) Noise. Tower-Based WCF or Pole Facility shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the 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.
- (k) Timing of Approval.
 - 1. Within thirty (30) calendar days of the date that an application for a Tower-Based WCF or Pole Facility is filed with the Township Zoning Officer, the Township shall notify the WCF 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 one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Tower-Based WCF or Pole Facility and the Township Board of Supervisors shall advise the WCF Applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.
- (l) Non-Conforming Uses. Non-conforming Tower-Based WCF or Pole Facilities 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 section. The Collocation of Antennae is permitted on non-conforming structures.
- (m) Removal. In the event that use of a Tower-Based WCF or Pole Facility 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 WCF or portions of WCF shall be removed as follows:
 - 1. All unused or abandoned Tower-Based WCFs or Pole Facilities and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site unless a time extension is approved by the Township.
 - 2. If the WCF and/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 Township, the WCF and accessory facilities and equipment

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

3. Any unused portions of Tower-Based WCF or Pole Facility, including Antennae, shall be removed within ninety (90) days of the time of cessation of operations. The Township must approve all Replacements of portions of a Tower-Based WCF or Pole Facility previously removed.
- (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 Tower-Based WCF or Pole Facility, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule and shall comply with the applicable requirements of the FCC.
- (o) Insurance. Each Person that owns or operates a Tower-Based WCF shall provide the Township Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF. Each Person that owns or operates a Pole Facility shall provide the Township with 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 each Tower-Based WCF.
- (p) Indemnification. Each Person that owns or operates a Tower-Based WCF or Pole Facility shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Tower-Based WCF. Each Person that owns or operates a Tower-Based WCF or Pole Facility shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of Tower-Based WCF or Pole Facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (q) Engineer signature. All plans and drawings for a Tower-Based WCF or Pole Facility shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

1. In addition to the applicable regulations in Section 20-7(B)(B)(1) the following regulations shall apply to Tower-Based Wireless Communications Facilities located outside the Public Rights-of-Way:

(a) Development Regulations.

1. Tower-Based WCF shall not be located in, or within fifty (50) feet of an area in which utilities are primarily located underground, unless the WCF Applicant proves to the satisfaction of the Township that installing its facility in such a location is necessary to provide Wireless service and that no other feasible alternative exists.
2. Tower-Based WCF are permitted outside the public Rights-of-Way in the following zoning districts by conditional use, subject to the requirements of this Chapter:

- [a] A Agricultural District
- [b] I Industry District
- [c] C-2 Highway Commercial District

3. Sole use on a lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying lot meets the minimum requirements of the underlying zoning district. 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 WCF structure's height, unless the Applicant shows to the satisfaction of the Township Board of Supervisors 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.
4. 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 use, except residential, subject to the following conditions:

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

[b] Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.

[c] Minimum setbacks. 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 Applicant shows to the satisfaction of the Township Board of Supervisors 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.

(b) Design Regulations.

1. Height. Tower-Based WCFs shall be designed and kept at the minimum functional height. The maximum total height of a Tower-Based WCF, which is not located in the public ROW, shall not exceed one hundred eighty (180) feet, as measured vertically from the ground level to the highest point on the structure, including Antennae and subsequent alterations. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF Applicant shall demonstrate that the Tower-Based WCF is the minimum height necessary for the service area.
2. Visual Appearance and Land Use Compatibility. Tower-Based WCF shall employ Stealth Technology which may include the tower portion to be painted brown or another color approved by Board of Supervisors or shall have a galvanized finish. All Tower-Based WCF and Accessory Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.
3. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennae and comparable Antennae for future users.
4. Any Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.

(c) Surrounding Environs.

1. 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.
2. The WCF Applicant shall submit a soil report to the Township Board of Supervisors complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

(d) Fence/Screen.

1. A security fence with a minimum height of six (6) feet shall completely surround any Tower-Based WCF located outside the Public Rights-of-Way, as well as guy wires, or any building housing WCF equipment.
2. A screen consisting of a hedge planted three (3) feet on center maximum or consisting of evergreen trees each at least four (4) feet in height and planted ten (10) feet on center maximum, shall surround the Tower-Based WCF and security fence. Existing vegetation shall be preserved to the maximum extent possible.

(e) Accessory Equipment.

1. Ground-mounted Accessory Equipment associated or connected with a Tower-Based WCF shall not be located within fifty (50) feet of a lot in residential use.
2. Accessory Equipment associated, or connected, with a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technology. All ground-mounted Accessory Equipment, 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.
3. Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area for each unrelated company sharing commercial communications Antenna(e) space on the Tower-Based WCF outside of the public ROW.

(f) Additional Antennae. As a condition of approval for all Tower-Based WCF, the WCF Applicant shall provide the Township Board of Supervisors with a written commitment that it will allow other service providers to collocate Antennae on Tower-Based WCF where technically and economically feasible.

(g) FCC License. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and Emergency telephone number for the operator of the facility.

(h) Access Road. If necessary, an access road, turnaround space and parking 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 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 or other property right for the proposed facility.

- (i) Inspection. The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the Zoning 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 lease property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
2. In addition to the applicable regulations in Section 20-7(B)(B)(1)-(2) the following regulations shall apply to Pole Facilities located in the Public Rights-of-Way that do not meet the definition of a Small WCF.
- (a) Location and development standards.
 - 1. Pole Facilities in the public ROW are prohibited in areas in which utilities are located underground.
 - 2. Pole Facilities in the public ROW shall not be located directly in the front yard area of any residential structure.
 - 3. Pole Facilities in the public ROW shall be permitted along certain arterial and collector roads throughout the Township, regardless of the underlying zoning district. A map of such permitted roads is kept on file at the Township Zoning Office.
 - (b) Time, Place and Manner. The Township Zoning Officer shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Pole Facilities in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
 - (c) Equipment Location. Pole Facilities and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township Board of Supervisors. In addition:
 - 1. In no case shall ground-mounted Accessory Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within four (4) feet of the edge of the cartway.
 - 2. Ground-mounted Accessory Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township Board of Supervisors.
 - 3. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township Board of Supervisors.

4. Any graffiti on the Pole Facility or any Accessory Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the Township.
5. Any underground vaults related to Pole Facilities shall be reviewed and approved by the Township Board of Supervisors.

(d) Design regulations.

1. The Pole Facility shall employ 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 Board of Supervisors.
2. Pole Facilities in the public ROW shall not exceed fifty (50) feet in height.
3. Except in the case of Eligible Facilities Requests pursuant to 47 CFR §1.40001, any height extensions to an existing Pole Facility shall require prior approval of the Township Zoning Officer and shall not increase the overall height of the Pole Facility to more than fifty (50) feet.
4. Any proposed Pole Facility shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennae and comparable Antennae for future users.

(e) Relocation or Removal of Facilities. Within ninety (90) 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 Pole Facility 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, shall determine 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; or
4. An Emergency as determined by the Township.

(f) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Pole Facility in the ROW is subject to the Township's right to fix annually a fair and

reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each Pole Facility shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall be established by the Township Fee Schedule and shall comply with the applicable requirements of the FCC.

C. Regulations Applicable to all Small Wireless Communications Facilities. The following regulations shall apply to Small Wireless Communications Facilities:

1. Location and development standards.
 - (a) Small WCF are permitted by administrative approval by the Township Zoning Officer in all zoning districts, subject to the requirements of this Section 20-7(B)(C).
 - (b) Small WCF in the public ROW requiring the installation of a new Wireless Support Structure shall not be located in front of any building entrance or exit.
 - (c) All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks.
2. Non-conforming Wireless Support Structures. Small WCF shall be permitted to collocate upon non-conforming Tower-Based WCF and other non-conforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.
3. Standard of care. Any Small 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, National Electrical Code, or to the 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 any property in the Township.
4. Wind and ice. All Small WCF 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.

5. Aviation safety. Small WCF shall comply with all federal and state laws and regulations concerning aviation safety.
6. Public safety communications. Small WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
7. Radio frequency emissions. A Small WCF shall not, 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.
8. Time, Place and Manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
9. Accessory Equipment. Small WCF and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Township.
10. Graffiti. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the Township.
11. Design regulations. All Small WCF shall be designed in accordance with the standards of the Township "Small Wireless Communications Facility Design Manual," a copy of which is kept on file at the Township Zoning Office.
12. Timing of Approval.
 - (a) Within sixty (60) days of receipt of an application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the Township Board of Supervisors shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
 - (b) Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new Wireless Support Structure, the Township Board of Supervisors shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

ATTEST:

LIGONIER TOWNSHIP BOARD OF
SUPERVISORS:

Secretary

Chairman

LIGONIER TOWNSHIP
WESTMORELAND COUNTY, PENNSYLVANIA

RESOLUTION 2019-23

FEE SCHEDULE FOR WIRELESS COMMUNICATIONS FACILITIES

THIS RESOLUTION is made this 9th day of July 2019, by the Board of Supervisors of the Township of Ligonier to establish fees for wireless communications facilities both inside and outside the public rights-of-way.

§ _____ Wireless Communications Facilities Fees

Pursuant to Paragraph (v.) "Permit Fees" of Provision "A. General and Specific Requirements for Non-Tower Wireless Communications Facilities" of Ordinance No. 1 of 2019 adopted July 9th, the following fees are hereby established.

Fee Schedule

Applications

Non-Tower WCF	\$500 for up to five (5) Non-Tower WCF. \$100 for each Non-Tower WCF thereafter.
Tower-Based WCF (Outside ROW)	\$2,500
Pole Facility (Inside ROW)	\$1,000

Annual ROW Fees

Pole Facility (Inside ROW)	\$750
Non-Tower WCF (Inside ROW)	\$500
Small WCF	\$270

APPROVED this 9th day of July, 2019 by the Board of Supervisors of the Township of Ligonier, Westmoreland County, Pennsylvania.

ATTEST:

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF LIGONIER:

Secretary/Treasurer

Chairman

Addendum:

- 1) Important Timeframes & Requirements Related to Wireless Facility Applications by Cohen Law Group
- 2) Small Wireless Communications Facility Design Manual



**Important Timeframes & Requirements
Related to Wireless Facility Applications**

1. Telecommunications Act of 1996
 - a. Preserves local zoning authority over the placement, construction, and modification of personal wireless service facilities, provided that zoning authority is not used to
 - i. Prohibit or have the effect of prohibiting wireless facilities
 1. Effect prohibition includes any regulation that “materially inhibits” a provider’s ability to provide service or deploy new technologies, per FCC’s 2018 *Third Report and Order*
 - ii. Discriminate between functionally equivalent providers
 - iii. Regulate the location, placement or construction of wireless facilities based on the environmental effects of radiofrequency (RF) emissions so long as the facilities comply with FCC RF standards
 1. This includes the effects of RF emissions on humans
2. FCC Shot Clocks
 - a. Large Wireless Facilities (2009 Order)
 - i. Local governments must act upon an application for a new wireless facility (i.e., tower) within 150 days of receipt of a completed application.
 - ii. Local governments must act upon an application for collocated facilities that are not Small Wireless Communications Facilities, as defined, within 90 days of receipt of a completed application
 - iii. Failure on the municipality’s part to meet these deadlines will create a presumption that the local government “failed to act” on the application.
 - iv. The local government must notify the applicant in writing of any decisions with respect to the application. Any denial of an application for the siting

of a wireless facility must be in writing and supported by substantial evidence.

- b. Small Wireless Facilities (2018 Order)
 - i. Local governments must act upon an application for a new collocated small wireless facility (i.e. antenna on an existing pole) within 60 days of receipt of an application.
 - ii. Local governments must act upon an application for a new pole and accompanying Small Wireless Facility within 90 days of receipt of an application.
 - iii. Local governments have 10 days to complete initial review of application for completeness. If additional information is required, the shot clock is tolled until the applicant resubmits the requested information.
 - iv. Failure on the municipality's part to meet these deadlines will allow the applicant to seek injunctive relief in federal court.
3. Spectrum Act of 2012 (as amended by the FCC's 2014 Report and Order)
 - a. A municipality must approve a collocation, modification, or replacement of equipment application unless the proposed collocation, modification, or replacement substantially changes the physical dimensions of the support structure to which the wireless facility is attached. (The definition of "substantially change" in the local law provided to the Village is consistent with the FCC definition.)
 - b. Within 30 calendar days of the filing of a collocation or modification application, the municipality/local government must notify the applicant in writing of any additional information required to complete the application.
 - c. Within 60 calendar days of receipt of a completed application, the municipality must either approve the application and/or advise the applicant in writing of its final decision. If the municipality does not act within the statutory timeframe, the application will be deemed approved.
4. September 27, 2018 Third Report and Order
 - a. Establishes definition of "Small Wireless Facility," which is consistent with the definition of Small Wireless Communications Facility included in the draft law.

- b. Establishes “presumptively reasonable” ceilings for fees that may be charged for Small Wireless Facilities as follows:
 - i. Initial application fees
 - 1. \$500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five
 - 2. \$1,000 for non-recurring fees for a new pole (i.e., not a collocation) intended to support one or more Small Wireless Facilities
 - ii. Recurring Annual Fees
 - 1. \$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW
 - iii. Local governments can charge fees in excess of the above in very limited situations provided those fees are: (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) the fees are non-discriminatory.
 - iv. These fees are reflected in the sample fee schedule provided to the Village.
- c. Aesthetic Requirements
 - i. While the Order does not address specific aesthetic requirements, the FCC imposed a new standard on such requirements, stating that any aesthetic requirements imposed on wireless facilities must be 1) reasonable, 2) no more burdensome than those applied to other similar types of infrastructure deployments, and 3) published in advance.
 - ii. The FCC noted that this standard also applies to requirements that establish a minimum separation distance between wireless facilities.

THE TOWNSHIP OF LIGONIER

SMALL WIRELESS COMMUNICATIONS FACILITY DESIGN MANUAL

SECTION I. DEFINITIONS

The following terms are defined as follows:

1. *Accessory Equipment* – any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term “Accessory Equipment” includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
2. *Antenna* – An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.
3. *Collocation* – The mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.
4. *Decorative Pole* – A Township-owned pole that is specially designed and placed for aesthetic purpose and on which no appurtenances or attachments, other than a small wireless facility, lighting, or municipal attachments have been placed or are permitted to be placed.
5. *Front Façade Area* – The area of the public right-of-way directly in front of a structure, identified by drawing a perpendicular line from each corner of structure to the public right-of-way.
6. *Prior Approved Design* – A design for a small wireless communications facility that has been reviewed and deemed to be in accordance with this Design Manual and approved for construction by the Township.
7. *Small Wireless Facility* -- A wireless communications facility that meets the following criteria:
 - (1) The structure on which antenna facilities are mounted—
 - (i) is 50 feet or less in height, or
 - (ii) is no more than 10 percent taller than other adjacent structures,or

(iii) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

(2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and

(3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume.

(4) The facilities do not require antenna structure registration under 47 CFR Part 17;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

8. *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 antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.
9. *Underground District* – A zoning district in which all utility installations are required to be installed underground on a non-discriminatory basis.

SECTION II. GENERAL STANDARDS FOR SMALL WIRELESS FACILITIES

1. All Small WCF shall be installed and maintained in a workmanlike manner in compliance with the National Electric Safety Code and the National Electrical Code, as applicable.
2. All Small WCF shall comply with the Americans with Disabilities Act guidelines adopted by the Township and all applicable requirements of the *Township Code* relating to streets and sidewalks.
3. Utility poles shall not obstruct vehicular, pedestrian, or cyclist traffic or sight lines in an unsafe manner.

4. All Small WCF shall comply with applicable federal and state standards regarding pedestrian access and movement.
5. All Small WCF shall be designed and constructed in an effort to minimize aesthetic impact to the extent technically feasible.
6. No Small WCF shall extend beyond the boundaries of the rights-of-way unless approved on a case-by-case basis by the appropriate Township official.
7. All Small WCF 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.

SECTION II. ANTENNA AND ACCESSORY EQUIPMENT STANDARDS

1. Antenna Standards

- a. Any Antenna associated with a Small WCF shall not exceed three (3) cubic feet in volume.
- b. All pole-top Antennas shall be flush-mounted as closely to the top of the utility pole as technically feasible.
- c. All Antennas shall be of a design, style, and color that reasonably matches the utility pole upon which they are attached.
- d. Any necessary pole-top extension shall be of the minimum height necessary to achieve separation from the existing pole attachments.
- e. Any Antenna mounted on a lateral standoff bracket shall protrude no more than necessary to meet clearances.
- f. If mounted on an existing structure, no Antenna shall impair the function of said structure.
- g. Antenna placement shall not impair light, air, or views from adjacent windows.

2. Accessory Equipment Standards

- a. Accessory Equipment shall not exceed twenty-eight (28) cubic feet in volume. Stealth Technology shall not be included in the Accessory Equipment volume calculation.

- b. Accessory Equipment shall be mounted flush to the side of a utility pole, or as near flush to the side of a utility pole as technically feasible.
 - c. Accessory Equipment shall be mounted so as to provide a minimum of eight (8) feet vertical clearance from ground level.
 - d. Accessory Equipment shall be of a color that reasonably matches the utility pole upon which such Accessory Equipment is mounted.
 - e. All Accessory Equipment shall be contained within a single equipment shroud or cabinet.
 - f. All Small WCF shall post a sign in a readily visible location identifying the owner's permit number and the name and phone number of a party to contact in the event of an emergency. The only other signage permitted shall be that required by the FCC or any other federal or state agency.
 - g. Accessory Equipment placement shall not impair light, air, or views from adjacent windows.
 - h. No Accessory Equipment shall feature any lighting, including flashing indicator lights, unless required by state or federal law.
3. Wiring Standards
- a. Exposed wiring is prohibited.
 - b. Transmission, fiber, power cables and any other wiring shall be contained within any utility pole for which such concealment is technically feasible. If wiring cannot be contained within the utility pole, all wiring shall be contained within conduit or U-guard that is flush-mounted to the utility pole.
 - c. All wiring shall be installed without excessive slack or extra cable storage on the utility pole.
 - d. Any conduit or U-guard shall be of a color that reasonably matches the utility pole to which the Small WCF is attached.
 - e. Loops of extra wiring shall not be attached to any utility pole.

SECTION III. POLE STANDARDS

1. Replacement Poles

- a. The maximum height of any proposed replacement utility pole shall be: 1) no more than ten (10%) percent taller than the tallest existing utility pole in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed Small WCF; or 2) fifty (50) feet above ground level, whichever is greater.
- b. Any replacement utility pole shall be of comparable materials and design to the existing utility pole.

- c. Any replacement utility pole shall be placed within five (5) feet of the existing utility pole being replaced.
- d. Any replacement utility pole shall be designed to accommodate all uses that existed on the existing utility pole prior to replacement. As part of an application for a Small WCF, the applicant shall provide documentation from a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the replacement utility pole, Small WCF, and prior existing uses shall be structurally sound.
- e. Any replacement utility pole shall not deviate from the predominant pattern of existing adjacent structures.

2. New Poles

- a. The maximum height of any new utility pole shall be: 1) no more than ten (10%) percent taller than the tallest existing utility pole in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed Small WCF; or 2) fifty (50) feet above ground level, whichever is greater.
- b. Any new utility pole shall be installed in accordance with the predominant pattern of existing adjacent structures.
- c. To the extent technically feasible, no new utility pole shall be installed:
 - i. In the Front Façade Area of any commercial or residential building;
 - ii. Within ten (10) feet of the edge of any driveway;
 - iii. In the public rights-of-way directly opposite any driveway; or
 - iv. In violation of the design standards contained herein.
- d. Decorative Poles:
 - i. Decorative Poles shall be required:
 - 1. For the replacement of any existing Decorative Pole; and
 - 2. In any zoning district where all utilities are required to be placed underground on a non-discriminatory basis.
 - ii. For any replacement Decorative Pole, the new Decorative Pole shall match the existing Decorative Pole in shape, design, color, and material.
 - iii. All replacement Decorative Poles shall comply with the requirements of Section III(1) of this Design Manual.

SECTION IV. APPROVAL

- 1. The Township Zoning Officer shall reasonably determine whether a proposed Small WCF design complies with the requirements of this Design Manual.

2. Any requests for a variance from the requirements of this Design Manual shall be considered on a case-by-case basis by the Township Zoning Officer and shall be approved upon a determination by the Township Zoning Officer that such variance is necessary to prevent the effective prohibition of wireless service pursuant to the Rules of the Federal Communications Commission.
3. Upon approval of a design for a Small WCF requiring a variance from the requirements of this Design Manual, such design shall be incorporated by reference into this Design Manual as a Prior Approved Design.

SECTION V. PRIOR APPROVED DESIGNS

1. A record of Prior Approved Designs shall be kept on file at the Township Zoning Office.