

**TOWNSHIP OF LOWER ALLEN
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE 2021-05

AN ORDINANCE OF THE TOWNSHIP OF LOWER ALLEN, CUMBERLAND COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF LOWER ALLEN TOWNSHIP, AS CODIFIED IN PART II, ARTICLE XIX OF THE LOWER ALLEN TOWNSHIP CODE, AND PARTICULARLY PROVIDING FOR THE AMENDMENT OF § 220-207 “WIRELESS COMMUNICATIONS FACILITIES” OF THE ZONING ORDINANCE; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES, NON-TOWER WIRELESS COMMUNICATION FACILITIES, AND SMALL 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 Commissioners of the Township of Lower Allen, Cumberland County, Commonwealth of Pennsylvania, and it is hereby ENACTED and ORDAINED by authority of same as follows:

I. REPEAL OF CERTAIN DEFINITIONS IN PART II, ARTICLE II § 220-6.

- A. The definitions of “Antenna”, “Co-location”, “Non-Tower Wireless Communications Facilities (Non-Tower WCF)”, “Person” and “Tower-Based Wireless Communications Facility (Tower-based WCF)” are hereby repealed and removed as definitions from Part II, Article II § 220-6 of the Lower Allen Township Zoning Ordinance.

II. AMENDMENT TO PART II, ARTICLE II § 220-6 DEFINITIONS; WORD USAGE

Section 220-6 of the Zoning Ordinance is hereby amended to include the following definitions to the “Definition; Word Usage” section:

Antenna—any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An Antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An Antenna shall not include Tower-Based Wireless Communications Facilities defined below. An Antenna shall not include private residence-mounted satellite dishes or television antennae or amateur radio equipment including, without limitation, ham, or citizen band radio antennae.

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.

Commercially Reasonable – means terms and pricing that are reasonably consistent with similar wireless facility leases and agreements within a fifty (50) mile radius of the Township.

Non-Tower Wireless Communications Facility (Non-Tower WCF)—all non-tower wireless communications facilities, including but not limited to, Antennae and related equipment. Non-Tower WCF shall not include support structures for Antennae and related equipment.

Persons—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.

Small Wireless Communications Facility (Small WCF)—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; and
- (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).

Tower— A self-supporting lattice tower, guy tower, monopole, or any other pole, that is constructed primarily to support an antenna for receiving and/or transmitting a wireless signal

Tower-Based Wireless Communications Facility (Tower-based WCF)— A Tower and its supporting antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. DAS hub facilities are considered to be Tower-Based WCFs.

Township—Lower Allen Township, Cumberland County, Commonwealth of Pennsylvania.

Underground Development – A development in which all utility installations are required to be installed underground on a non-discriminatory basis.

III. REPEAL AND REPLACEMENT OF PART II, ARTICLE XIX § 220-207.

Part II, Article XIX § 220-207 is hereby repealed and replaced in its entirety, provided for as follows:

SECTION I. Short Title.

This Ordinance shall be known as the “Lower Allen Township Wireless Communications Facilities Ordinance.”

SECTION II. Purposes and Findings of Fact.

- A. The purpose of this Ordinance is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Lower Allen Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this Ordinance, the Township intends to:
- (1) Regulate the placement, construction, and modification of Wireless Communication Facilities to protect the safety and welfare of the public.
 - (2) 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.
 - (3) 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.
 - (4) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities.
 - (5) Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures.
 - (6) Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape.
 - (7) Ensure that wireless communications facilities will be removed in the event that such structures are abandoned or become obsolete and are no longer necessary; and
 - (8) Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

SECTION III. General Requirements for All Tower-Based Wireless Communications Facilities.

- A. The following regulations shall apply to all Tower-Based Wireless Communications Facilities:
1. Standard of Care. Any Tower-Based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, Uniform Construction Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Tower-Based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
 2. Wind and Ice. Any Tower-Based WCF structures shall be designed to withstand the effects of wind and ice according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).

3. Height. Any Tower-Based WCF shall be designed at the minimum functional height. All Tower-Based WCF applicants must submit documentation to the Township justifying the total height of the structure. In no case shall a WCF exceed a maximum height of two hundred (200) feet.
4. Public Safety Communications. No Tower-Based WCF shall interfere with public safety communications, or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
5. Maintenance. The following maintenance requirements shall apply:
 - (a) Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - (c) All maintenance activities shall utilize the best available technology for preventing failures and accidents.
 - (d) The Township reserves the authority to require the repainting of all Tower-Based Facilities where the painting of such facilities is not regularly maintained.
6. Radio Frequency Emissions. No Tower-Based WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
7. Historic Buildings or Districts. No Tower-Based WCF may be located on a building or structure that is listed on an historic register or is located in an historic district.
8. Signs. A sign shall be posted at all Tower-Based WCFs in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.
9. Lighting. Tower-Based WCF shall not be artificially lighted, except as required by law. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
10. Noise. Tower-Based WCFs 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.
11. Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
12. Inspection. No later than December of each odd-numbered year, the owner of the Tower-Based WCF shall have said WCF structure inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of Tower-Based WCFs and has demonstrated his/her expertise to the satisfaction of the Township. At a minimum, this inspection shall be conducted in accordance with the Tower Inspection Class checklist provided in the Electronics Industries Association (EIA) Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures. A copy of said inspection report and certification of continued use shall be provided to the Township by March 1 following the inspection. Any repairs advised by report shall be effected by the owner within sixty (60) calendar days after the report is filed with the Township.

13. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the Tower-Based WCF and once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
14. Timing of Approval. 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, including an application fee in the amount specified by the Wireless Fee Schedule. If the Township receives an application for a Tower-Based WCF and such application is not fully completed, then the Township shall promptly notify the applicant that the application is not complete and the time for the approval of such application shall not commence until a fully completed application is received by the Township.
15. Non-Conforming Uses. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored in accordance with Section 220-223 but must otherwise comply with the terms and conditions of this Ordinance.
16. Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
 - (a) All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the WCF and/or accessory facility is not removed within six (6) months 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.
 - (c) Any unused portions of Tower-Based WCFs, including Antennas, shall be removed within six (6) months of the time of cessation of operations. The Township must approve all replacements of portions of a Tower-Based WCF previously removed.
17. Siting. No tower-based wireless communications facility shall be located, in whole or in part, within the right-of-way.
18. Prohibited In Areas of Underground Utilities. Tower-based WCF shall not be located in, or within seventy-five (75) feet of, an underground development.
19. Historic Buildings. No Tower-Based WCF may be located within one hundred (100) 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.
20. Development Regulations. Tower-based wireless communications facilities shall be developed in accordance with the following requirements:
 - (a) Prohibited In Areas of Underground Utilities. Tower-based WCF shall not be located in, or within seventy-five (75) feet of, an underground development.
 - (b) Permitted by Right Subject to Regulation. Tower-based WCF are permitted by right subject to regulation outside of the public rights-of-way in the following zoning districts, subject to the underground utility prohibition above:

- (i) C-1 Neighborhood Commercial District.
 - (ii) C-2 General Commercial District.
 - (iii) C-3 Planned Business Center District.
 - (iv) C-4 Regional Commercial District.
 - (v) I-1 General Industrial District.
 - (vi) I-2 Mineral Recovery District.
 - (vii) I-3 Industrial/Commercial District.
- (c) Permitted by Conditional Use. Tower-based WCF are permitted by conditional use, subject to the underground utility prohibition above, in the following zoning districts:
- (i) MUN Mixed-Use Neighborhood District.
 - (ii) R-1 Single Family Established Residential District.
 - (iii) R-2 Single Family Rural Residential District.
 - (iv) R-3 Multifamily Residential District.
- (d) Minimum Height Necessary to Satisfy Function. Tower-based WCF are permitted in the MUN Mixed-Use Neighborhood District, R-1 Single-Family Established Residential District, R-2 Single-Family Rural Residential District, and R-3 Multifamily Residential District, by conditional use and at a height necessary to satisfy their function in the WCF applicant's wireless communications system. 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 antenna/tower/pole for the tower-based WCF is the minimum height necessary for the service area.
- (i) Prior to the Board's approval of a conditional use authorizing the construction and installation of Tower-Based WCF, it shall be incumbent upon the WCF applicant for such conditional use approval to prove to the reasonable satisfaction of the Board that the WCF applicant cannot adequately extend or infill its communications system by colocation, or the use of equipment such as redoes, repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF applicant's service area and that no other viable alternative location exists.
 - (ii) The conditional use application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, 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.
 - (iii) The conditional use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all state and federal laws and regulations concerning aviation safety.
 - (iv) Where the Tower-Based WCF is located on a property with another principal use, the WCF applicant shall present documentation to the Board of Commissioners that the owner of the property has granted an easement for the proposed WCF, and that vehicular access will be provided to the facility.
 - (v) The conditional use application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all applicable provisions in this section.
- (e) Coverage and Capacity. An applicant for a Tower-Based WCF must demonstrate that a gap in wireless coverage and capacity exists and that the type of WCF and siting being proposed is the least intrusive means by which to fill the gap in wireless coverage

and capacity. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of Tower-Based WCFs.

- (f) Good Faith Effort. Any applicant proposing construction of a new Tower-Based WCF shall demonstrate in writing that a good faith effort has been made to obtain permission to place such a Tower-Based WCF on lands or rights-of-way owned or under control of the Federal, State, or Local Government which would meet their needs.
- (g) Sole Use on a Lot. A Tower-Based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- (h) Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another industrial, commercial, institutional, or municipal use, subject to the following conditions:
 - (i) The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the communications facility.
 - (ii) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.
 - (iii) Minimum Setbacks. The Tower-Based WCF shall be set back from all property lines or lease lines the greater of a distance equal to fifty percent (50%) of the height of the structure or to the yard setback applicable to the zoning district in which the structure is to be located.

21. Procedures.

- (a) Any applicant proposing construction of a new Tower-Based WCF that meets the Chapter 192 definition of land development shall submit plans to the Township for review by the Township staff and Planning Commission and for Approval by the Board of Commissioners in accordance with the requirements of Chapter 192, Subdivision and Land Development.
- (b) The applicant shall prove that it is licensed by the FCC to operate a Tower-Based WCF and that the proposed Tower-Based WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

22. Notice. Upon receipt of an application for a Tower-Based WCF under a conditional use permit, the Township shall mail notice thereof to the owner or owners of every property zoned residential or used for residential purposes within a five hundred (500) foot radius of the site of the proposed facility.

23. Eligible Facilities Request.

WCF Applicants proposing a Modification to an existing WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from the Township Building Code Official if required by the PA Uniform Construction Code and validate qualification as an eligible facility with the Zoning Officer. In order to be considered for such permit, the WCF Applicant must submit a building permit application to the Township in accordance with applicable permit policies and procedures.

24. Co-Location.

- (a) An application for a new Tower-Based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building.

Any applicant proposing construction of a new Tower-Based WCF outside the Rights-of-Way shall demonstrate to the satisfaction of the Board of Commissioners, by written submission, that a good faith effort has been made to obtain permission to mount the Tower-Based WCF Antenna on an existing building or structure. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed Tower-Based WCF site be contacted and that the applicant certifies in writing to the Board of Commissioners that one (1) or more of the following reasons for not selecting such structure apply:

- (i) The proposed WCF and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at reasonable cost.
- (ii) The proposed WCF and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at reasonable cost.
- (iii) Such existing structure does not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function; and/or
- (iv) A commercially reasonable agreement cannot be reached with the owner(s) of such structure.

25. Design Regulations:

- (a) Any height extensions to an existing Tower-Based WCF shall require prior approval of the Township. The tower extension color shall reasonably match the color of the existing tower.
- (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 Antennae for future users.

26. Surrounding Environs:

- (a) The WCF applicant shall ensure that the existing vegetation, trees, and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- (b) The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA/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.

27. Fence/Screen:

- (a) A security fence having a maximum height of nine (9) feet, and a minimum height of six (6) feet, shall completely surround any Tower-Based WCF, guy wires, or any building housing WCF equipment in accordance with Section 220-201 A95).
- (b) An evergreen screen that consists of a hedge, planted three (3) feet on center maximum, or a row of evergreen trees planted ten (10) feet on center maximum shall be located along the perimeter of the security fence. The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.
- (c) In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

28. Accessory Equipment:

- (a) Ground-mounted equipment associated to, or connected with, a Tower-Based WCF shall be underground or screened from public, as described above.
 - (b) All utility buildings and accessory structures shall be architecturally designed to be compatible in appearance with surrounding buildings and structures by utilizing appropriate colors, materials and styles. and shall meet the minimum setback requirements of the underlying zoning district
29. Additional Antennae. As a condition of approval for all Tower-Based WCFs, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate Antennae on Tower-Based WCFs where technically and commercially reasonable. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Township.
30. Access Road. 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 construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility. The easement shall be a minimum of twenty (20) feet in width and the access shall be paved to a width of at least ten (10) feet throughout its entire length.
31. Bond. Prior to the issuance of a permit, the owner of a Tower-Based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Township Solicitor, in an amount of \$75,000 to assure the faithful performance of the terms and conditions of this Ordinance. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Township and maintain the bond for the life of the respective facility.
32. Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any Tower-Based WCF based upon visual and/or land use impact.
33. Inspection by Township. The Township reserves the right to inspect any Tower-Based WCF to ensure compliance with the provisions of this Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

SECTION IV. Non-Tower Wireless Facilities Outside the Rights-of-Way

A. The following regulations shall apply to all Non-Tower Wireless Communications Facilities:

- 1. Permitted by Right in All Zones Subject to Regulations. Non-Tower WCFs are permitted by conditional use outside the public Rights-of-Way in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
- 2. Siting Preferences. The following sites shall be utilized by applicants as the required order of location of proposed non-tower WCF, including antenna and related equipment. As determined feasible, and in order of preference, the sites are:
 - (a) Existing WCF, utility poles, traffic signal poles, smokestacks, water towers, or any other tall structures.
 - (b) I-1 General Industrial District, I-2 Mineral Recovery District, and I-3 Industrial/Commercial District.

- (c) Publicly owned structures.
 - (d) C-1 Neighborhood Commercial District, C-2 General Commercial District, C-3 Planned Business Center District, and C-4 Regional Commercial District.
 - (e) Residential zones which are MUN Mixed-Use Neighborhood District, R-1 Single-Family Established Residential.
3. Development Regulations. Non-Tower WCFs shall be co-located on existing structures, such as existing buildings or Tower-Based WCFs subject to the following conditions:
- (a) Such WCF does not exceed the maximum height permitted in the applicable zoning district.
 - (b) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
 - (c) A security fence with a maximum height of nine (9) feet, and 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.
4. Procedures.
- (a) Any applicant proposing a Non-Tower WCF to be mounted on a building or any other structure shall submit detailed construction and elevation drawings indicating how the Non-Tower WCF will be mounted on the structure for review by Lower Allen Township Planning Commission for compliance with the Lower Allen Township Building Code.
 - (b) The applicant shall prove that it is licensed by the FCC to operate a Non-Tower WCF and that the proposed Non-Tower WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
5. Eligible Facilities Request.
- WCF Applicants proposing a Modification to an existing WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from the Township Building Code Official if required by the PA Uniform Construction Code and validate qualification as an eligible facility with the Zoning Officer. In order to be considered for such permit, the WCF Applicant must submit a building permit application to the Township in accordance with applicable permit policies and procedures.
6. Visual or Land Use Impact. The Township reserves the right to deny an application for the construction or placement of any Non-Tower WCF based upon visual and/or land use impact.
7. Historic Buildings. Non-Tower WCFs may not be located on a building or structure that is listed on an historic register or is located in an historic district.
8. Timing of Approval. All applications for Non-Tower WCFs shall be acted upon by the Township within ninety (90) days of the receipt of a fully completed application for the approval of such WCF, including an application fee in an amount specified by the Wireless Fee Schedule. If the Township receives an application for a Non-Tower WCF and such application is not fully completed, then the Township shall promptly notify the applicant that the application is not complete and the time for the approval of such application shall not commence until a fully completed application is received by the Township.

9. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
10. Bond. Prior to the issuance of a permit, the owner of a Non-Tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in an amount of \$25,000 to assure the faithful performance of the terms and conditions of this Ordinance. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township and maintain the bond for the life of the respective facility.
11. Design Regulations.
 - (a) Non-Tower WCFs shall employ architectural design utilizing compatible colors, materials and styles to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
 - (b) Non-Tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a variance.
 - (c) All Non-Tower WCF applicants must submit documentation to the Township justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (d) Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
12. 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, and Uniform Construction Code (UCC). 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.
13. Wind. Any Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
14. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications, or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
15. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields", as amended.
16. Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

17. Inspection by Township. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
18. Maintenance. The following maintenance requirements shall apply:
 - (a) The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - (c) All maintenance activities shall utilize the best available technology for preventing failures and accidents.
19. Upgrade, Replacement, Modification.
 - (a) The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading, replacing, modifying, or repairing the WCF is permitted, without obtaining a municipal building or zoning permit, so long as such upgrade, replacement, modification, or repair does not increase the overall size of the WCF or the numbers of Antennae.
 - (b) Any material modification to a wireless telecommunication facility shall require a prior amendment to the original permit or authorization.
20. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
 - (a) All abandoned or unused WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (b) If the WCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Township, the 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.

SECTION V. Regulations Applicable to all Small Wireless Communications Facilities.

A. The following regulations shall apply to Small Wireless Communications Facilities:

1. Location and development standards.
 - (a) Small WCF are permitted by administrative approval from the Township Zoning Officer in all Township zoning districts, subject to the requirements of this section, § 220-206(V) and generally applicable permitting as required by the Township Code.
 - (b) Eligible Facilities Request. Small WCF Applicants proposing a Modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from the Township Building Code Official, if required by the PA Uniform Construction Code, and validate qualification as an eligible facility with the Zoning Officer. In order to be considered for such permit, the Small WCF Applicant must submit a building permit application to the Township in accordance with applicable permit policies and procedures.

- (c) Small WCF located within underground developments shall be collocated on existing or replacement Wireless Support Structures. No new Wireless Support Structure may be installed for the purpose of supporting a Small WCF within areas of underground utilities.
 - (d) Small WCF in the public ROW requiring the installation of a new Wireless Support Structure shall not be located directly in front of any building entrance or exit.
 - (e) 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. Application Fees. The Township may assess appropriate and reasonable application fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs, subject to the limitations in this section.
 4. 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, the Pennsylvania UCC, 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.
 5. 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/EIA/TIA-222, as amended), or to the industry standard applicable to the structure.
 6. 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.
 7. 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.
 8. 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.
 9. Graffiti. Any graffiti on the Wireless Support Structure or on any Accessory Equipment shall be removed at the sole expense of the owner within ten (10) days of notification by the Township.
 10. Design standards. All Small WCF in the Township shall comply with the requirements of the Township Small Wireless Communications Facility Design Manual, a copy of which is attached hereto as Exhibit A.

11. Co-Location. An application for a new Small WCF in the ROW shall not be approved unless the Township finds that the proposed wireless communications equipment cannot be accommodated on an existing structure, such as a utility pole or traffic light pole. Any application for approval of a Small WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a quarter-mile radius from the point of the proposed wireless support structure, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized
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 Zoning Officer 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 Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
 - (c) Within ten (10) calendar days of the date that an application for a Small WCF 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.
13. 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 Small 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 determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (a) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way.
 - (b) The operations of the Township or other governmental entity in the Right-of-Way.
 - (c) Vacation of a street or road or the release of a utility easement; or
 - (d) An emergency as determined by the Township.
14. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small 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 Small 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 comply with the applicable requirements of the Federal Communications Commission.

SECTION VI. Violations Applicable to All Wireless Facilities

- A. Penalties. Any Person violating any provision of this Ordinance shall be subject, upon finding by a magisterial district judge, to a penalty not exceeding five hundred dollars (\$500), for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Ordinance and any other remedy at law or in equity, the Township may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Ordinance.

- B. Determination of Violation. In the event a determination is made that a Person has violated any provision of this Ordinance, such Person shall be provided written notice of the determination and the reasons, therefore. Except in the case of an Emergency, the Person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided the Person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this Ordinance and/or federal and/or Pennsylvania law and regulations.

SECTION VII. Insurance and Indemnification of Wireless Facilities

- A. Insurance. Each Person that owns or operates a wireless facility is required to purchase and maintain general liability insurance and property damage insurance, as specified herein:
1. Each Person that owns or operates a Tower-Based WCF shall provide the Board 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.
 2. Each Person that owns or operates a Non-Tower WCF shall annually provide the Board 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.
 3. Each Person that owns or operates a Small WCF shall annually provide the Board 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 Small WCF
- B. Indemnification. Each Person that owns or operates a Tower-Based WCF, a Non-Tower WCF, or a Small 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 WCF. Each Person that owns or operates a Tower-Based WCF, a Non-Tower WCF, or a Small 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 the 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.

SECTION VIII. Miscellaneous

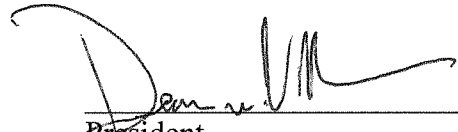
- A. Police Powers. The Township, by granting any permit or taking any other action pursuant to this Chapter, does not waive, reduce, lessen, or impair the lawful police powers vested in the Township under applicable federal, state, and local laws and regulations.
- B. Severability. If any section, subsection, 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.
- C. Effective Date. This Ordinance shall become effective immediately upon enactment by the Board of Commissioners of Lower Allen Township.

ENACTED AND ORDAINED this 27 day of December 2021.

ATTEST:

LOWER ALLEN TOWNSHIP BOARD
OF COMMISSIONERS:


Secretary


President