



TOWNSHIP OF ABINGTON
COUNTY OF MONTGOMERY, PENNSYLVANIA

ORDINANCE NO. 2195

AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF ABINGTON, COUNTY OF MONTGOMERY, COMMONWEALTH OF PENNSYLVANIA; TO ESTABLISH GENERAL AND SPECIFIC STANDARDS RELATING TO SMALL WIRELESS COMMUNICATIONS FACILITIES IN THE RIGHTS-OF-WAY.

Be it enacted and ordained by the Township Board of Commissioners of the Township of Abington, County of Montgomery, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

SECTION I. AMENDMENT OF DEFINITIONS.

Section 154-3, "Definitions" of the Code of Ordinances of the Township of Abington is hereby amended by adding the following definitions:

- A. *Accessory Equipment* – Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- B. *Antenna* – An apparatus designed for the purpose of emitting radiofrequency (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.
- C. *Collocation* – The mounting of one or more WCFs, including antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.
- D. *Eligible Facilities Request* -- Any request for modification of an existing WCF that does not Substantially Change the physical dimensions of such WCF, involving:
 - (1) Collocation of new transmission equipment;
 - (2) Removal of transmission equipment; or
 - (3) Replacement of transmission equipment.
- E. *FCC* – Federal Communications Commission.
- F. *Small Wireless Communications Facility* – The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:
 - (1) Each antenna associated with the deployment is no more than three cubic feet in volume; and
 - (2) The volume of all other equipment associated with the wireless communications facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any



equipment used solely for the concealment of the small wireless communications facility shall not be included in the calculation of equipment volume.

- G. *Substantially Change or Substantial Change* – A modification substantially changes the physical dimensions of a support structure if it meets the criteria established by 47 CFR §1.6100.
- H. *Technically Feasible* -- By virtue of engineering or spectrum usage, the proposed placement for a WCF or its design or site location can be implemented without a material reduction in the functionality of the WCF.
- I. *Wireless Communications Facility (WCF)* – An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.
- J. *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 II. AMENDMENT OF RIGHTS-OF-WAY PROVISIONS..

Section 154-6, "Duration and suspension of permit" of the Code of Ordinances of the Township of Abington is hereby amended by adding a new Section 154-6C as follows:

- C. **Small WCF permit duration.** A permit for a Small WCF in the Rights-of-Way shall have a term of five (5) years. Such permit shall be renewed for two additional five (5) year periods if the Applicant is in compliance with the criteria set forth in this Chapter 154. The Applicant shall submit proof of such compliance with all requirements of this Chapter 154 prior to the expiration of any five (5) year term. The Township may suspend such right-of-way permit in the event any one or more of the following has occurred:
 - (1) The permit holder shall have caused damage to Township property or the right-of-way without the prior consent of the Township (except in the case of an emergency).
 - (2) The permit holder or the permit holder's equipment in the right-of-way has had a detrimental effect on public safety as it relates to the permit holder's use of the rights-of-way.
 - (3) The permit holder failed to pay any of the fees required under this Chapter 154.
 - (4) The permit holder failed to comply with construction standards in accordance with the provisions contained in § 154-11 below.
 - (5) The permit holder failed to indemnify, hold harmless and insure the Township in accordance with the provisions contained in § 154-12 below.
 - (6) The permit holder provided false, incomplete or missing information on the rights-of-way or construction permit application.
 - (7) The permit holder failed to comply with any material provisions of § 154-134 below.



SECTION III. AMENDMENT OF RIGHTS-OF-WAY PROVISIONS.

Section 154-69, "Fees" of the Code of Ordinances of the Township of Abington is hereby amended by adding the underlined text and deleting the ~~stricken~~ text as follows:

Section 154-69. Fees.

- A. Registration fee. Each application for registration as a telecommunications carrier or provider shall be accompanied by a fee of \$100 annually.
- B. License fee. Each application for a license pursuant to Article IV or V of this Part 2, except for those applicants seeking a franchise solely for the deployment of small wireless communications facilities, shall pay an application fee of \$500, or 2% of the estimated cost of the applicant's proposed telecommunications facilities, as certified by the applicant's professional engineer; whichever is greater. Applicants for a license solely for the deployment of small wireless communications facilities shall pay application fees in accordance with the requirements of Article XXVIII of the Township Zoning Ordinance and the Township fee schedule, as amended. In addition, from and after the effective date of the license agreement and throughout the full term of the license, the licensee shall pay to Abington Township, in quarterly installments, an annual fee for all facilities constructed, calculated as follows:
- (1) For facilities requiring excavation of public right-of-way, an annual fee of \$1.50 per lineal foot;
 - (2) For facilities being installed in existing conduit, without disturbing the right-of-way, an annual fee of \$0.50 per lineal foot;
 - (3) For overhead facilities installed requiring new poles in public right-of-way, an annual fee of \$0.75 per lineal foot;
 - (4) For overhead facilities installed on existing poles in public right-of-way, an annual fee of \$0.25 per lineal foot.
 - ~~(5) For wireless telecommunications antennas installed on public property on existing structures or buildings an annual fee of \$12,000.~~
 - ~~(6) For wireless telecommunications antennas installed on public property utilizing new base structures or tower mounts, an annual fee of \$24,000.~~
 - (7) For small wireless communications facilities in the public rights-of-way, an annual fee of \$270 per WCF per year.
- C. Franchise fees. Each application for a franchise agreement pursuant to Article IV or V of this Part 2, except for those applicants seeking a franchise solely for the deployment of small wireless communications facilities, shall pay an application fee of \$1,000, or 2% of the estimated cost of the applicant's proposed telecommunications facilities as certified by the applicant's professional engineer; whichever is greater. Applicants for a franchise agreement solely for the deployment of small wireless communications facilities shall pay application fees in accordance with the requirements of Article XXVIII of the Township Zoning



Ordinance and the Township fee schedule, as amended. In addition, from and after the effective date of the franchise agreement, the franchisee shall pay to Abington Township, in quarterly installments, a fee for facility construction, calculated as follows:

- (1) For facilities requiring excavation of public right-of-way, a one-time fee of \$1.50 per lineal foot;
- (2) For facilities being installed in existing conduit, without disturbing the right-of-way, a one-time fee of \$0.50 per lineal foot;
- (3) For overhead facilities installed requiring new poles in public right-of-way, a one-time fee of \$0.75 per lineal foot;
- (4) For overhead facilities installed on existing poles in public right-of-way, a one-time fee of \$0.25 per lineal foot.
- ~~(5) For wireless telecommunications antennas installed on public property on existing structures or buildings, an annual fee of \$12,000.~~
- ~~(6) For wireless telecommunications antennas installed on public property utilizing new base structures or tower mounts, an annual fee of \$24,000.~~
- (7) An annual franchise fee equal to 5% of the gross revenue derived by the franchisee, unless the holder of the franchise is providing solely wireless communications service via wireless communications facilities.
- (8) For small wireless communications facilities in the public rights-of-way, an annual fee of \$270 per WCF per year.

D. Application and license fees shall be deposited with the Township as part of the application filed, pursuant to Article IV or Article V of this Part 2, and may be used in highway and right-of-way repair or revitalization.

E. An applicant whose license or franchise application has been withdrawn, abandoned, or denied shall, within 60 days of submission of application and review fees, submit a written request for refund of the balance of its deposit under this section, less 10% and all ascertainable costs and expenses incurred by the Township in connection with the application.

SECTION IV. AMENDMENT OF WIRELESS COMMUNICATIONS FACILITIES PROVISIONS.

Section 154-74, "Annual Fees" of the Code of Ordinances of the Township of Abington is hereby amended by adding the underlined text and deleting the ~~stricken~~ text as follows:

§154-74. Annual fees.

Unless otherwise agreed in a license or franchise grant agreement, each license or franchise grantee shall pay an annual license fee to the Township equal to \$1,000 as reimbursement for the Township's costs in connection with reviewing, inspecting, and supervising the use and occupancy of the public ways in behalf of the public



and existing or future users. Franchisees or licensees who hold franchises solely for the deployment of small wireless communications facilities in the public rights-of-way shall be exempt from the requirements of this Section 154-74.



SECTION V. AMENDMENT OF WIRELESS COMMUNICATIONS FACILITIES PROVISIONS.

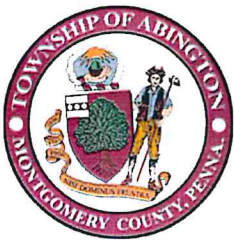
Chapter 154, Part 2 "Standards, Registration, Licensing and Franchise Regulations" of the Code of Ordinances of the Township of Abington is hereby amended by adding a new Section 154-134, entitled and provided for as follows:

§154-134 Small Wireless Communications Facilities

- A. The following regulations shall apply to small wireless communications facilities located inside the public rights-of-way:
- (1) Location. Small WCFs are permitted by right inside the public Rights-Of-Way in all Township zoning districts, subject to the requirements of this Section 154-134 and generally applicable permitting as required by the Township Code.
 - (2) Application Procedures.
 - (a) Applications for Small WCFs shall be submitted to the Township Zoning Officer.
 - (b) Applications for Small WCFs shall include the following:
 - (i) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Small WCF, and a certification that the Applicant has included all information required by the Township Code, signed by a representative of the applicant.
 - (ii) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Small WCF.
 - [1] If the Small WCF is proposed for location on an existing structure or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - [2] If installation of a new or replacement Wireless Support Structure is being proposed, the depiction shall include the color, dimensions, material and type of Wireless Support Structure proposed.
 - (iii) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small WCF.
 - (iv) An aerial photograph of the proposed site showing the area within 500 feet of the Small WCF. The aerial photograph shall identify all structures within such radius.
 - (v) Photo simulations depicting the Small WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Small WCF.
 - (vi) If the Small WCF will be located on a structure owned by a party other than the applicant, evidence showing that the owner of the structure has granted the applicant permission to attach the proposed Small WCF.



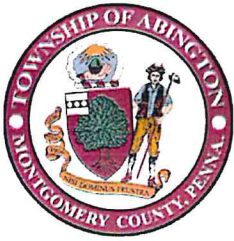
- (vii) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Small WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
 - (viii) A report by a qualified engineering expert which shows that the Small WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
 - (ix) Certification of the application's compliance with all requirements of this Chapter 154.
 - (x) All application fees required by the Township as detailed in the Township fee schedule.
- (c) Timeframe for review and decision.
- (i) The Township Zoning Officer shall issue a final decision on an application for a new Small WCF that is Collocated on an existing structure within sixty (60) days of receipt of the application, subject to applicable tolling procedures under federal and state law.
 - (ii) The Township Zoning Officer shall issue a final decision on an application for a Small WCF that requires the installation of a new or replacement Wireless Support Structure within ninety (90) days of receipt of the application, subject to applicable tolling procedures under federal and state law.
 - (iii) Within 10 business days of receiving an application for a Small WCF, the Township Zoning Officer shall determine and notify the Applicant in writing whether the application is complete. If an application is incomplete, the notice shall specifically identify the missing information. The applicable processing deadline shall restart at zero on the date the Applicant provides the missing information specified in any such notice.
- (d) Resubmission upon denial.
- (i) If the Township denies an application for a Small WCF, the Township shall provide the Applicant with written documentation of the basis for denial, including the specific provisions of the Township Code on which the denial was based, within five (5) business days of the denial.
 - (ii) The Applicant may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.
- (3) Development standards.
- (a) Standard of care.



- (i) All Small WCFs shall meet or exceed all applicable standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate Wireless Communications Facilities, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the Applicant and provided to the Township.
- (ii) If, upon inspection by the Township, the Township concludes that a Small WCF fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the WCF, the owner shall have thirty (30) days to bring such Small WCF into compliance with the applicable codes and standards. Failure to bring such Small WCF into compliance within thirty (30) days shall constitute grounds for the removal of the Small WCF at the owner's expense.
- (b) All Small WCFs shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- (c) Small WCFs shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (d) 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. The Applicant shall submit proof of compliance with all applicable standards relating to radio frequency emissions as part of any complete WCF application.
- (e) All Small 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 as permitted by the Township.
- (f) Small WCFs 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.
- (g) All Small WCFs shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Code requirements applicable to streets and sidewalks as established by Chapter 143 of the Code of Ordinances of the Township of Abington.



- (h) Small WCFs 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.
 - (i) Design standards. All Small WCFs in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*, which shall be adopted, and may be amended from time to time, by Resolution of the Township Board. A copy of such shall be kept on file at the Township Department of Community Development.
- (4) Time, Place and Manner. Once approved, the Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
 - (5) Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the owner within thirty (30) calendar days of notification by the Township.
 - (6) Obsolete equipment. As part of the construction, modification or replacement of a Small WCF, the Applicant shall remove any obsolete or abandoned equipment from the Wireless Support Structure.
 - (7) 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 that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Township.
 - (8) Time limit for completion of construction. The proposed Collocation, the modification or replacement of a Wireless Support Structure or the installation of a new Wireless Support Structure with Small WCF attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the Township and the Applicant agree in writing to extend the period.



- (9) 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 WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.
- (10) 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 in accordance with this Chapter 154. Such fees shall comply with the applicable requirements of the Federal Communications Commission.
- (11) Maintenance. The following maintenance requirements shall apply:
- (a) All WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.
 - (b) 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 in accordance with all applicable Township, state and federal regulation.
- (12) Inspection. The Township and/or its third-party inspection company reserves the right to inspect any WCF to ensure compliance with the provisions of this section and any other provisions found within the Township Code or state or federal law.
- (13) Removal.
- (a) Within 60 days of suspension or revocation of a permit due to noncompliance with this Chapter 154, the Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure if the Applicant's Small WCF and Accessory Equipment are the only facilities on the Wireless Support Structure.
 - (b) Within 90 days of the end of a permit term or an extension of the permit term, the Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure if the Applicant's Small WCF and Accessory Equipment are the only facilities on the Wireless Support Structure.

SECTION VI. 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.

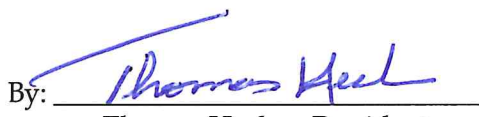
C. Effective Date. This Ordinance shall become immediately after enactment by the Board of Commissioners of the Township of Abington.

ENACTED AND ORDAINED this 11th day of August, 2022.

TOWNSHIP OF ABINGTON
BOARD OF COMMISSIONERS

Attest:


Richard J. Manfredi,
Township Manager & Secretary

By: 
Thomas Hecker, President