

FERGUSON TOWNSHIP PLANNING COMMISSION
Regular Meeting Agenda
Monday, September 12, 2022, 6:00 PM

Hybrid Meeting

REMOTE PARTICIPANTS:

Join Zoom Meeting:

<https://us02web.zoom.us/j/83268113138>

Meeting ID: 832 6811 3138

[Zoom Access Instructions](#)

IN-PERSON PARTICIPANTS:

**Ferguson Township Municipal
Building**

**Main Meeting Room
3147 Research Drive
State College, PA**

I. CALL TO ORDER

II. CITIZENS INPUT

III. APPROVAL OF MINUTES

1. August 22, 2022, Regular Meeting Minutes

IV. OLD BUSINESS

1. Wireless Communications Facilities Amendment (PA Act 50)

The Small Wireless Facilities Deployment Act (Act 50) was signed into law on June 30, 2021 and was drafted in unison with the Pennsylvania Municipal League and telecommunications providers. The legislation provides for fair and equitable treatment of small wireless facilities and comprehensive protections for the municipality to ensure proper maintenance of public rights-of-way. At a Regular Meeting held on September 20, 2021, the Board of Supervisors authorized staff to prepare an amendment to the Wireless Communications Facilities Ordinance.

After further review by the Township Solicitor, staff has updated the draft amendments and included redlined drafts in the agenda for amendments to §27-710—Wireless Communications Facilities, §27-1102—Definitions and the establishment of Chapter 21, Streets and Sidewalks, Part 6, Non-Tower-Based or Small Wireless Communications Facilities in the Right-of-Way. The Board reviewed the drafts at their September 6, 2022 meeting and authorized advertisement of a public hearing for November 8, 2022.

Recommended Motion: Move that the Planning Commission recommend approval to the Board of Supervisors to adopt the amendments to Chapter 27, Zoning, Section 710, Wireless Communications Facilities, Section 1102, Definitions and established Chapter 21, Streets and Sidewalks, Part 6, Non-Tower-Based or Small Wireless Communications Facilities in the Right-of-Way.

Staff Recommendation: Recommend approval to the Board of Supervisors.



2. Elder Cottages Review and Discussion

Included in Planning Commission's 2023 Work Program is a review of Elder Cottages for potential implementation in Ferguson Township. Staff has reviewed regulations in Pennsylvania for Elder Cottages and how they are regulated and has included in the agenda a staff report and a presentation outlining the Township's existing regulations and considerations the Planning Commission should examine for relevance to Ferguson Township. Staff is prepared to answer any questions the Commission may have.

Recommended Motion: No recommended motion, this is a discussion item.

Staff Recommendation: Review the provided information and discuss.

V. COMMUNICATIONS TO THE COMMISSION

VI. OFFICIAL REPORTS AND CORRESPONDENCE

1. Board of Supervisors Report
2. CRPC Report
3. Land Development Plans
 - a. Farmstead View Preliminary Subdivision – Awaiting Response to fifth review
 - b. Peace Center and Cemetery Preliminary Land Development Plan – Awaiting Response to first review
 - c. Fusion Japanese Steakhouse – Awaiting Response to first review
 - d. IMBT Preliminary Subdivision Plan– Conditionally approved on September 6, 2022
 - e. West College Avenue Vertical Mixed-Use Preliminary Land Development Plan – Awaiting Response to first review
 - f. MP Machinery Preliminary Land Development Plan – Under second staff review
 - g. Minor Subdivision of 2161 and 2151 Sandy Dr – Under first staff review
 - h. Salvation Baptist Church – Awaiting Response to first review
 - i. 165 Volos Lane (296 W. Pine Grove Road) Minor Land Development Plan– Under third staff review
4. Staff Updates

VII. ADJOURNMENT

**FERGUSON TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
MONDAY, AUGUST 22, 2022
6:00 PM**

ATTENDANCE

The Planning Commission held its first meeting of the month on Monday, August 22, 2022, as a hybrid meeting. In attendance:

Commission:

Jerry Binney –Chair
Rob Crassweller - Secretary
Shannon Holliday
Bill Keough
Lisa Rittenhouse
Dr. Ellen Taricani – Vice Chair
Lewis Steinberg – Alternate
Ralph Wheland
Qian Zhang - Alternate

Staff:

Jenna Wargo - Planning & Zoning Director
Jeff Ressler - Zoning Administrator
Kristina Bassett – Community Planner

Others in attendance: Rhonda R. Demchak, Recording Secretary; Jeremie Thompson, Ferguson Township resident and Board of Supervisor; Tim Bieber, Site Development and Project Manager of Rutters; Tony Fruchtl, PennTerra; Wes Glebe, Ferguson Township Resident

I. CALL TO ORDER

Mr. Binney called the Ferguson Township Planning Commission’s regular meeting to order on Monday, August 22, at 6:00 p.m. and it has been advertised in accordance with the PA Sunshine Act as a hybrid meeting.

Ms. Wargo took roll call, and the Planning Commission had a quorum.

Former Chair of the Planning Commission, Jeremie Thompson thanked the Commission for their partnership over the last four years and looks forward to further collaboration in the future. Mr. Thompson was appointed as the newest member of the Ferguson Township Board of Supervisors.

II. CITIZEN INPUT

There were no comments.

III. APPROVAL OF MINUTES

Mr. Keough moved that the Planning Commission **approve** the July 11, 2022, Regular Meeting Minutes. Mr. Crassweller seconded the motion. The motion passed unanimously.

IV. NEW BUSINESS

1. Election of Planning Commission Chair

Ms. Wargo reported that at the August 16, 2022, Board of Supervisors meeting, Jeremie Thompson was appointed to serve as a Board of Supervisor for Ward II. The Director of Planning and Zoning will serve as temporary Chair in order to

conduct the nomination for a new Chair.

Mr. Crassweller nominated Mr. Binney as the new Chair.

Mr. Wheland moved that the Planning Commission close the nominations and appoint Mr. Binney as the Chair. Mr. Crassweller seconded the motion the motion passed unanimously.

Mr. Crassweller nominated Dr. Taricani as the new Vice Chair.

Mr. Wheland moved that the Planning Commission close the nominations and appoint Dr. Taricani as the Vice Chair. Mr. Crassweller seconded the motion the motion passed unanimously.

2. IMBT Preliminary Subdivision Plan

Ms. Bassett noted that included in the agenda is the IMBT Preliminary Subdivision Plan, dated July 26, 2022, last revised August 2, 2022. The Imbt Subdivision is located along Blue Course Drive at the intersection with West College Avenue and Old Block Road. Tax Parcel 24-004-,017A,0000-, is located within the General Commercial (C) zoning district and Corridor Overlay District (COD).

The applicant is proposing to subdivide the parcel into two lots, one commercial lot and one stormwater management lot. The existing lot is 9.234 acres and includes an existing stormwater basin on the northern portion. Proposed Lot 1 will be 6.313 acres and Proposed Lot 2, the stormwater management lot, will be 2.921 acres. Sidewalks are to be added along Blue Course Drive and West College Avenue, connecting the existing sidewalks to the north.

Staff has reviewed the preliminary subdivision plan and is recommending approval subject to the outstanding staff comments as described in the Community Planner's memorandum dated August 17, 2022.

Mr. Wheland inquired about the stormwater basin and who it is serving. Mr. Tony Fruchtl, PennTerra, stated that it currently serves the Mount Nittany Medical Office Building and there is capacity left over to be utilized.

Mr. Keough asked if the sidewalks were outside of the lot lines. Mr. Fruchtl stated that they were.

Mr. Keough inquired about the lane. Ms. Bassett stated that it is a private roadway and is on the Blaise Alexander property. Mr. Fruchtl reported that it is very complicated, and they are working with the Township to clarify. Mr. Tim Bieber, Site Development and Project Manager of Rutters, stated that they are not into the land development phase yet, but should be soon. Mr. Bieber stated that they envision a signalized intersection.

Mr. Crassweller moved that the Planning Commission recommend **approval** of the IMBT Preliminary Subdivision Plan to the Board of Supervisors subject to the conditions described in the Community Planner's memorandum dated August 17, 2022. Mr. Wheland seconded the motion. The motion passed unanimously.

V. COMMUNICATIONS TO THE COMMISSION

There were no communications.

VI. OFFICIAL REPORTS AND CORRESPONDENCES

A. Board of Supervisors

Ms. Wargo reported that Mr. Thompson was appointed to the Board of Supervisors and there was a Public Hearing on Chapter 16, Parks and Recreation amendment that was approved.

Mr. Keough asked about the sidewalks that the Planning Commission recommended to the Board not to install. Ms. Wargo reported that the Board of Supervisors moved to install the sidewalks at the Dimakopoulos property.

B. CRPC Meeting

Dr. Taricani reported that there is no meeting in August.

C. Land Development Plans

Ms. Wargo reviewed the following:

- a. Farmstead View Preliminary Subdivision – Awaiting Response to fifth review
- b. Peace Center and Cemetery Preliminary Land Development Plan – Awaiting Response to first review
- c. Centre Animal Hospital Final Land Development Plan – Awaiting Recording
- d. Fusion Japanese Steakhouse Preliminary Land Development Plan – Awaiting Response to first review
- e. IMBT Preliminary Subdivision – PC Review of Subdivision
- f. West College Avenue Vertical Mixed-Use Preliminary Land Development Plan – Awaiting Response to first review.

Mr. Keough expressed concerns with the alley and asked if there are discussions being held. Mr. Wargo stated that the property owner owns the opposite side of the alley, and they will be consolidating

- g. MP Machinery Preliminary Land Development Plan– Awaiting Response to first review
- h. Salvation Baptist Church Preliminary Land Development Plan– Staff Second Review
- i. 165 Volos Ln (296 W. Pine Grove Road) Minor Land Development Plan– Awaiting Response to first review, sidewalk installation will be required

D. Staff Updates

Ms. Wargo reported that there is a Public Input meeting being held on August 31st for the Terraced Streetscape District Rewrite and there are two options to attend. There will be a zoom meeting at noon and an in-person meeting at 5:00 p.m. held at the Township Building.

Mr. Keough would like to see more green infrastructures in the Township. Ms. Wargo suggested that Mr. Keough bring his ideas to the meeting. Mr. Steinberg noted that we can't tell the developer what the building should look like.

Ms. Wargo reported that Mackin will be walking with the residents of the Terraced Streetscape District without staff present to hear their ideas/concerns.

VII. **Adjournment**

Dr. Taricani made a motion to **adjourn** the August 22, 2022, Planning Commission meeting at 6:50 p.m. Mr. Crassweller seconded the motion. The motion passed unanimously.

Respectfully Submitted,

Rob Crassweller, Secretary
For the Planning Commission

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This tool is only meant for editing.*

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§ 27-710 **Tower-Based Wireless Communications Facilities.**
[Ord. No. 1049, 11/18/2019]

1. Intent. The wireless communications facilities (WCF) regulations are intended to achieve the following:
 - A. To provide a competitive and wide range of communications services.
 - B. To encourage the shared use of existing communication towers, buildings and structures.
 - C. To ensure compliance with federal and state regulations.
 - D. To promote the health, safety and welfare of Township residents and businesses with respect to wireless communications facilities.
 - E. To address modern and developing technologies including, but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other communications facilities.
 - F. To establish procedures for 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 of the public rights-of-way.
 - G. To protect Township residents and businesses 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.
2. General Requirements for All Tower-Based Wireless Communications Facilities. The following regulations shall apply to all tower-based wireless communications facilities:
 - A. 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, 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.
 - B. Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the ANSI as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry (ANSFEINTIA-222-E Code, as amended).
 - C. Height. Any tower-based WCF outside of the ROW shall be designed at the minimum functional height and shall not exceed a maximum total height of 200 feet, or 40 feet when located within the ROW, which height and shall include all subsequent additions or alterations. Height shall be measured from the average natural grade to the top point of the communications tower or antenna, whichever is greater. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure. Tower-based WCF constructed outside the ROW at a height greater than 200 feet but not to exceed 300 feet shall be permitted as a conditional use in the RA, AR, RR, C, FG, I and IRD Districts by the Board of Supervisors if the following criteria are met:
 - (1) The applicant shall provide documentation to the Township which details the commitment to provide capacity on the proposed tower-based WCF to more than one provider. The

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document must describe the additional tower height that is required to provide the capacity to the additional provider(s). The document shall also show that by providing the additional height and capacity, there will not be a need from the involved companies for an additional tower outside the ROW within a radius of one mile of the site. The burden of proof shall be on the applicant to show that the proposed tower is the minimum height needed to provide the required service.

- (2) The applicant shall provide documentation to the Township that the height limitation of 200 feet will require the construction of two or more towers and that by permitting an increase in the height of the tower, only one tower will be required. The burden of proof shall be on the applicant to show that the proposed tower is the minimum height needed to provide the required services. The purpose of this conditional use is to permit an increase in the height of one tower to reduce the need for additional towers.
- D. **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.
- E. **Maintenance.** The following maintenance requirements shall apply:
- (1) Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair, except as permitted and in accordance this section.
 - (2) 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.
 - (3) All maintenance and activities shall utilize the best available technology for preventing failures and accidents.
- F. **Radio Frequency Emissions.** No tower-based WCF may, by itself or in conjunction with other WCF, generate radio frequency emissions in excess of the standards and regulations of the Federal Communications Commission (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 provide, upon request, a statement from a qualified licensed and professional registered engineer that the non-ionizing electromagnetic radiation (NIER) emitted from the tower-based WCF, when measured in conjunction with the emissions from all communications antenna on the tower, does not result in an exposure at any point on or outside such facility which exceeds the lowest applicable exposure standards established by the FCC or the ANSI.
- G. **Historic Buildings or Districts.** No tower-based WCF may be located on or within 200 feet of a site that is listed on an historic register, a site listed for inclusion on the historic register, or in an officially designated state or federal historic district.
- H. **Identification.** All tower-based WCF shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township. The notice shall not exceed two square feet in gross surface area and shall maintain the contact party.
- I. **Lighting.** Tower-based WCF shall not be artificially lighted, except as required by the Federal Aviation Administration and as may be approved by the Township. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. No flag shall be located on the structure that requires lighting.
- J. **Appearance.** Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color as determined by the Township Planning and Zoning Director to harmonize

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with the surroundings.

- K. Noise. Tower-based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and Chapter 10, Part 3, of the Ferguson Township Code of Ordinances, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
 - L. Aviation Safety. Tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
 - M. 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 section. 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.
 - N. Timing of Approval. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. All complete applications for tower-based WCF shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF, and the Township shall advise the applicant, in writing, of its decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.
 - O. Nonconforming Uses. Nonconforming tower-based WCF 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. Co-location of facilities may be permitted on nonconforming structures in accordance with standards established in the Pennsylvania Wireless Broadband Collocation Act.
 - P. 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 WCF or portions of WCF shall be removed as follows:
 - (1) All unused or abandoned tower-based WCF and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.
 - (2) If the WCF and/or accessory facility is not removed within six 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. The Township reserves the right to pursue any and all available remedies under law or equity to ensure removal of the WCF and restoration of the site at the expense of the owner. Any delay in the Township in taking action shall not invalidate the Township's right to take such action.
 - (3) Any unused portions of tower-based WCF, including antennas, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.
 - Q. 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 tower-based WCF, as well as related inspection, monitoring and related costs.
3. Tower-Based Wireless Communications Facilities Outside the Rights-of-Way. The following

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regulations shall apply to tower-based wireless communications facilities located outside of the right-of-way (ROW):

A. Permitted Only in Certain Zones. No tower-based WCF shall be permitted within 500 feet of the nearest adjoining property line. Tower-based WCF shall only be permitted as designated in zoning districts as identified within the chapter.

~~B. Evidence of Need. It is required that the applicant for the placement of a tower based WCF that will exceed 40 feet in height shall submit to Ferguson Township evidence of the need for the tower based WCF in the proposed location and that the applicant has exhausted all alternatives to locate on an existing tower or structure (co location). In addition, the applicant must demonstrate via written evidence from a qualified, licensed, and professional engineer that, in terms of location and construction, there are no existing towers, tower based WCF, buildings, structures, elevated tanks or similar uses able to provide the platform for the antenna within a one mile radius of the chosen location, unless the applicant can demonstrate to the satisfaction of the Township that a different distance is more reasonable. Co location is not possible if:~~

- ~~(1) Coverage diagrams and technical reports demonstrate that co location on an existing tower based WCF is not technically possible in order to serve the desired need.~~
- ~~(2) Planned equipment would exceed the structural capacity of existing towers within the Township, considering existing and planned use of those towers and existing towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.~~
- ~~(3) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for that tower and the interference cannot be prevented at a reasonable cost.~~
- ~~(4) Existing or approved towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned.~~
- ~~(5) Other reasons can be demonstrated to the satisfaction of the Township that make it impractical to place the equipment planned by the applicant on existing and approved towers.~~

~~B. Sole Use on a Lot. A tower-based WCF is permitted as the sole use on a lot subject to the minimum lot size and setbacks complying with the requirements of the applicable zoning district.~~

~~C. 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 agricultural, industrial, commercial, or municipal use, subject to the following conditions:~~

- (1) The existing use on the property may be any permitted use in the applicable zoning district and need not be affiliated with the communications facility.
- (2) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the tower-based WCF, the communications facility building, security fence, and buffer planting.
- (3) Minimum Setbacks. The tower-based WCF and accompanying communications facility building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within 500 feet of the nearest adjoining property line.

~~D. Notice. Upon receipt of a letter of a complete application by the Township for a tower-based~~

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WCF, the applicant shall mail notice thereof to the owner or owners of every property within 500 radial feet of the parcel or property of the proposed facility. The applicant shall provide the Township with evidence that the notice was mailed out to applicable property owners.

FE. Design and Construction.

- (1) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- (2) To the extent permissible under applicable law, any height extensions to an existing tower-based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
- (3) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Tower-based WCF must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.
- (4) Guy wires are not permitted. The monopole must be self-supporting.

GF. Surrounding Environs. A soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA/TIA-222-G Manual, as amended, shall be submitted to the Township to document and verify design specifications of the foundation for the tower-based WCF.

HG. Fence/Screen.

- (1) A security fence of approved design, of not less than eight feet in height and no greater than 10 feet in height, shall completely enclose the tower-based WCF. The fencing required in must also have a one-foot barbed arm slanted at a 45° angle which runs along the entire top of the fence.
- (2) The applicant shall submit a landscaping plan. Sites in which communications towers are located shall be required to comply with the following landscape requirements:
 - (a) Landscaping, consisting of evergreen plantings which shall reach a height of at least eight feet within five years of planting shall be required at the perimeter of the security fences and WCF. Existing wooded areas, tree lines and hedgerows adjacent to the facility shall be preserved and used to substitute or meet a portion of the buffer yard requirements. When the WCF is located in a developed commercial or industrial area, the Board of Supervisors may waive the buffer yard regulations in exchange for another type of screening which is compatible with the surrounding land use.
- (3) Where feasible/appropriate, the tower or antenna shall be constructed to blend in with the surrounding area.
- (4) No signs or any form of advertising of any kind shall be permitted on the WCF or antennas. However, one sign, not to exceed two square feet in gross surface area, which identifies the phone number and contact in the event of an emergency is required. In addition, "No Trespassing" signs may be placed on the security fencing in accordance with the Township's Sign Ordinance (Chapter 19).

HH. Accessory Equipment.

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- (1) Ground-mounted equipment associated with, or connected to, a tower-based WCF shall be underground, if possible. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground-mounted equipment shall be screened from public view using stealth technologies, as described above.
- (2) All buildings and structures associated with a tower-based WCF 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.

J. 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. The vehicular access to the tower-based WCF and communications facility building shall meet the applicable municipal street standards for private streets and/or driveway standards. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.

K. Inspection. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this section and any other provisions found within the Township Code of Ordinances 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.

~~4. Tower Based Wireless Communications Facilities Inside the Rights of Way. The following regulations shall apply to tower based wireless communications facilities located in the rights of way (ROW):~~

~~A. Permitted Where Aboveground Utility Infrastructure Exists. No tower based wireless communications facilities shall be located in areas where utility infrastructure is installed underground.~~

- ~~(1) In areas not served by aboveground utility infrastructure, tower based WCF may be constructed at intersections of arterial and arterial street classifications and arterial and collector street classifications to provide coverage and capacity.~~

~~B. Evidence of Need. It is required that the applicant for the placement of a tower based WCF shall submit to Ferguson Township evidence of the need for the tower based WCF in the proposed location and that the applicant has exhausted all alternatives to locate on an existing tower or structure (co location). In addition, the applicant must demonstrate via written evidence from a qualified, licensed, professional engineer that, in terms of location and construction, there are no existing towers, tower based WCF, buildings, structures, elevated tanks or similar uses able to provide the platform for the antenna within a 1/2 mile radius of the chosen location, unless the applicant can demonstrate to the satisfaction of the Township that a different distance is more reasonable. Co location is not possible if:~~

- ~~(1) Capacity diagrams and technical reports demonstrate that co location on an existing tower based WCF is not technically possible in order to serve the desired need.~~
- ~~(2) Planned equipment would exceed the structural capacity of existing towers within the Township, considering existing and planned use of those towers and existing towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.~~
- ~~(3) Planned equipment will cause radio frequency (RF) interference with other existing or~~

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planned equipment for that tower and the interference cannot be prevented at a reasonable cost.

- (4) Existing or approved towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned.
- (5) Other reasons can be demonstrated to the satisfaction of the Township that make it impractical to place the equipment planned by the applicant on existing and approved towers.

C. ~~Notice. Upon submission of an application for a tower based WCF, the applicant shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility. The applicant shall provide the Township with evidence that the notice was mailed out to applicable property owners.~~

D. ~~Co-Location. An application for a new tower based 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. Any application for approval of a tower based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a 1/2 mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized. Co-location shall not be permitted on ornamental streetlight fixtures.~~

E. ~~Time, Place, and Manner. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all tower based WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place, and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.~~

F. ~~Equipment Location. Tower based WCF and accessory equipment 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 in addition:~~

- (1) ~~In no case shall ground mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb. In the absence of a curb, facility must be located outside the safe clear zone of the roadway as determined by Public Works Director.~~
- (2) ~~Ground mounted equipment that cannot be underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.~~
- (3) ~~Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.~~
- (4) ~~Any graffiti on the tower or any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.~~
- (5) ~~Any underground vaults related to tower based WCF shall be reviewed and approved by the Township.~~

G. ~~Design Regulations.~~

- (1) ~~The WCF shall employ the most current stealth technology available in an effort to~~

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appropriately blend into the surrounding environment and minimize the aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.

(2) Any height extensions to an existing tower based WCF shall require prior approval of the Township, and shall not increase the overall height of the tower based WCF to more than 50 feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact or any other lawful considerations related to the character of the Township.

(3) Guy wires are not permitted. The monopole must be self supporting.

H. ~~Additional Antennas. As a condition of approval for all tower based WCF in the ROW, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co locate antennas on tower based WCF where technically and economically feasible. The owner of a tower based WCF shall not install any additional antennas without obtaining the prior written approval of the Township.~~

I. ~~Relocation or Removal of Facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a tower based 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 the applicable public utility commission regulations, 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.~~

(4) ~~An emergency as determined by the Township.~~

J. ~~Compensation for ROW Use. In addition to the permit fees, every tower based WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall 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 tower based 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. The annual ROW management fee for tower based WCF shall be determined by the Township and authorized by resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such tower based WCF.~~

K. ~~Restoration Deposit. Prior to the issuance of a permit, the owner of each individual tower based WCF shall, at its own cost and expense, deliver a restoration deposit in an amount determined by the Director of Public Works, or his designee. The return of the deposit shall be contingent upon the proper restoration of the ROW and compliance with the terms and conditions of this section. Upon installation of the tower based WCF, the applicant shall notify the Township that the site is ready for inspection. The Public Works Director or his designee shall inspect the site and, if it is found to be satisfactory, the restoration deposit shall be refunded to the applicant within 30 days. The restoration deposit may be forfeited in whole or in part to the Township if any work is found to be incomplete or not in compliance with all applicable standards.~~

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54. General Requirements for All Non-Tower-Based Wireless Communications Facilities or Small Wireless Communications Facilities located outside the Right-of-Way:

- A. For the purposes of this section, the regulations shall only apply to non-tower-based wireless communications facilities that are not regulated by the Pennsylvania Wireless Broadband Collocation Act; or the Small Wireless Facilities Deployment Act (Act 50), except where noted or where otherwise permitted by law.
- B. The following regulations shall apply to all non-tower-based wireless communications facilities located outside the right-of-way, that do not substantially change the physical dimensions of the wireless support structure to which they are attached, as defined above:
- (1) Permitted in All Zones Subject to Regulations. Non-tower-based WCF are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
 - (2) Standard of Care. Any non-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, and National Electrical Code. Any non-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.
 - (3) Wind. Any non-tower-based WCF structure 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-G, as amended).
 - (4) Public Safety Communications. No non-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) Aviation ~~s~~Safety Non-tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
 - (6) Radio Frequency Emissions. No non-tower-based WCF shall, by itself or in conjunction with other WCF, 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) Removal. In the event that the use of a non-tower-based 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 WCF or portions of WCF shall be removed as follows:
 - (a) All abandoned or unused WCF and accessory facilities shall be removed within three 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 facilities are not removed within three months of the cessation of operations, or within any longer period of time 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.
 - (8) Timing of Approval. Within 30 calendar days of the date that an application for a non-

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tower-based WCF is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant, in writing, of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ~~sixty~~60-day review period. This standard shall only apply to facilities that are regulated by the Pennsylvania Wireless Broadband Collocation Act.

- (9) Application 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-based WCF, as well as related inspection, monitoring and related costs. Such fees may be assessed by applicable federal or state statute for relevant co-located facilities and other non-tower-based WCF.

C. The following regulations shall apply to all non-tower-based wireless communications facilities located outside the right-of-way that substantially change the wireless support structure to which they are attached:

- (1) Permitted in All Zones Subject to Regulations. Non-tower-based WCF are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
- (2) Standard of Care. Any non-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, and National Electrical Code. Any non-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.
- (3) Wind. Any non-tower-based WCF structure 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-G, as amended).
- (4) Public Safety Communications. No non-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) Historic Buildings. Non-tower WCF may not be located on a building or structure that is on an historic register or a building or structure listed for inclusion on a historic register.
- (6) Aviation Safety. Non-tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (7) Maintenance. The following maintenance requirements shall apply:
 - (a) The non-tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technologies for preventing failures and accidents.

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- (8) Radio Frequency Emissions. No non-tower-based WCF shall, by itself or in conjunction with other WCF, 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.
- (9) Removal. In the event that the use of a non-tower-based 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 WCF or portions of WCF shall be removed as follows:
- (a) All abandoned or unused WCF and necessary facilities shall be removed within three 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 months of the cessation of operations, or within any longer period of time 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.
 - (c) Timing of Approval. Within 30 calendar days of the date that an application for a non-tower-based WCF is filed with the Township, the Township shall notify the applicant, in writing, of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant, in writing, of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ~~sixty~~60-day review period. This standard shall only apply to facilities that are regulated by the Pennsylvania Wireless Broadband Collocation Act.
 - (d) 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 non-tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this section. 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.
 - ~~(e) Restoration Deposit. Prior to the issuance of a permit, the owner of each individual tower-based WCF shall, at its own cost and expense, deliver a restoration deposit in an amount determined by the Director of Public Works, or his designee. The return of the deposit shall be contingent upon, where applicable, the proper restoration of the ROW and compliance with the terms and conditions of this section. Upon installation of the tower based WCF, the applicant shall notify the Township that the site is ready for inspection. The Public Works Director or his designee shall inspect the site and, if it is found to be satisfactory, the restoration deposit shall be refunded to the applicant within 30 days. The restoration deposit may be forfeited in whole or in part to the Township if any work is found to be incomplete or not in compliance with all applicable standards.~~
 - (f) 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-based WCF, as well as related inspection, monitoring and related costs.

65. Non-Tower-Based Wireless Communications Facilities Outside the Rights-of-Way. The following

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additional regulations shall apply to non-tower-based wireless communications facilities located outside the rights-of-way that substantially change the wireless support structure to which they are attached:

- A. Development Regulations. Non-tower-based WCF shall be co-located on existing structures, such as existing building or tower-based WCF, subject to the following conditions:
 - (1) Such WCF does not exceed a maximum height of 10 feet above the permitted height of any structure in the applicable zoning district.
 - (2) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
 - (3) A six-foot-high security fence with evergreen screening 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.
- B. Design Regulations.
 - (1) Non-tower-based WCF shall employ stealth technology and be treated to match the supporting structure in order to minimize the aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
 - (2) Non-tower-based WCF ~~which that~~ are mounted to a building or similar structure may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use approval.
 - (3) All non-tower-based WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in context of such justification on an individual basis.
 - (4) Antennas, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
 - (5) Noncommercial Usage Exemption. The design regulations enumerated in § 27-710, Subsection 6A(2), shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.
- C. Removal, Replacement, and Modification.
 - (1) The removal and replacement of non-tower-based 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 increase the overall size of the WCF or the numbers of antennas.
 - (2) Any material modification to a WCF shall require prior amendment to the original permit or authorization.
- D. Inspection. The Township 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 of Ordinances 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.

~~76.~~ Non-Tower-Based or Small Wireless Communications Facilities ~~in the Rights of Way.~~ The

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~~following additional regulations shall apply to all non-tower based wireless communications facilities located in the rights-of-way as defined by the Small Wireless Facilities Deployment Act, Act 50 of 2021, (Act 50) shall be permitted by right in all zoning districts subject to the application requirements and design standards of Chapter 21, Part 6, and the standards, rights, and obligations set forth in Act 50.~~

~~A. Location. Non-tower based WCF in the ROW shall be co-located on existing poles, such as utility poles. Co-location shall not be permitted on ornamental streetlight fixtures.~~

~~B. 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 feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.~~

~~(2) Antennas and all support equipment shall be treated to match the supporting structure. WCF and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.~~

~~C. Compensation for ROW Use. In addition to the permit fees as described in § 27-710, Subsection 5B(9), and otherwise herein, every non-tower based WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall 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 based 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. The annual ROW management fee for non-tower based WCF shall be determined by the Township and authorized by resolution of the Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such non-tower based WCF.~~

~~D. Time, Place, and Manner. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all non-tower based WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place, and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.~~

~~E. Equipment Location. Non-tower based WCF and accessory equipment 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. In addition:~~

~~(1) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb. In the absence of a curb, facility must be located outside the safe clear zone of the roadway as determined by Public Works Director.~~

~~(2) Ground-mounted equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground-mounted equipment cannot be underground, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.~~

~~(3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.~~

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~~(4) Any graffiti on the tower or any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.~~

~~(5) Any underground vaults related to tower based WCF shall be reviewed and approved by the Township.~~

~~F. Relocation or Removal of Facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is seasonably necessary, or such other period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change, or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change, or alteration is reasonably necessary under the following circumstances:~~

~~(1) The construction, repair, maintenance, or installation of any Township or other public improvement in the right-of-way.~~

~~(2) The operations of the Township or other governmental entity in the right-of-way.~~

~~(3) Vacation of a street or road or the release of a utility easement.~~

~~(4) An emergency as determined by the Township.~~

~~G. Visual and/or Land Use Impact. The Township retains the right to deny an application for the construction or placement of a non-tower based WCF based upon visual and/or land use impact.~~

87. Violations Applicable to All Wireless Communications Facilities.

A. Penalties. Any person violating any provision of this section shall be subject, upon finding by a Magisterial District Judge, to a penalty not exceeding \$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 section 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 section.

B. Determination of Violation. In the event a determination is made that a person has violated any provision of this section, such person shall be provided written notice of the determination and the reasons therefor. Except in the case of an emergency, the person shall have 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 that 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 section and/or federal and/or Pennsylvania law and regulations.

98. Miscellaneous.

A. Police Powers. The Township, by granting any permit or taking any other action pursuant to this section, 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 section 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 section invalid.

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§ 27-1102 Definitions.
[Ord. No. 1049, 11/18/2019]

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.

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APPLICABLE CODES—Any of the following codes: (1) uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons. (2) Ferguson Township zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances.

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CO-LOCATION—The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures, including self supporting or guyed monopoles and towers, electrical transmission towers, water towers, or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunications facilities if approved by the Township. The term includes the placement, replacement, or modification of accessory equipment within a previously approved communications facility building. COLLOCATION OR COLLOCATE—To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure.

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CABLE FACILITY—Buildings, other structures and equipment used by the owner or operator of a cable television system to provide service. As used in this definition, the term "cable system" shall have the meaning given to it in section 602(6) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(7)).

COMMUNICATIONS SERVICE PROVIDER—Any of the following:

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

FCC—The Federal Communications Commission.

MICRO WIRELESS FACILITY—A small wireless facility that:

- (1) Does not exceed two cubic feet in volume; and
- (2) Has an exterior antenna no longer than 11 inches.

MODIFICATION OR MODIFY—The improvement, upgrade or replacement of a small wireless facility or an existing utility pole that does not substantially change, as defined in 47 CFR 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the small wireless facility or utility pole.

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Chapter 21 Streets and Sidewalks

Part 6

Non-Tower-Based or Small Wireless Communications Facilities in the Right-of-Way

I. Purpose and Intent.

A. The purpose of this Part is to establish procedures and standards consistent with all applicable federal and state laws, for the consideration, permitting, siting, construction, installation, collocation, modification, operation, regulation and removal of Non-Tower-Based or Small-Wireless Facilities ("SWF") in the public right-of-way of streets and roads.

B. The intent of this Part is to:

- (1) Establish basic criteria for applications to install and/or collocate SWFs in the public right-of-way;
- (2) Ensure that SWFs are appropriately designed, constructed, modified, maintained, and removed when no longer in use in conformance with all applicable health and safety regulations;
- (3) Preserve the character of the Township by minimizing the potentially adverse visual impact of SWFs through careful design, siting, landscaping and camouflaging techniques to blend these facilities into their environment to the maximum extent practicable;
- (4) Establish an application process and structure for payment of fees and charges to be uniformly applied to all applicants, operators and owners of SWFs for such facilities;
- (5) Comply with, and not conflict with or preempt, all applicable state and federal laws, as may be amended or superseded, and all FCC rules and regulations to interpret and implement applicable federal statutes; and
- (6) Limit interference with the use of streets, sidewalks, alleys, parkways, public utilities, public views, certain Township corridors, and other public ways and places.

C. Zoning. Applications to collocate a SWF or install or modify an associated utility pole in the rights-of-way shall be treated as a permitted use pursuant to Act 50 of 2021, the Small Wireless Facilities Deployment Act, and exempt from local zoning where required by the Act. However, the applicant must obtain any and all permits of general applicability otherwise required for the work required to accomplish the above, including but not limited to any pave-cut or right-of-way occupancy permit required under this Chapter of Ferguson Township Code of Ordinances. All other wireless facilities not meeting the definition of a small-wireless facility shall remain subject to any applicable zoning requirements.

D. This Chapter is intended to implement the requirements of the Small Wireless Facilities Deployment Act. Failure of the Township to include all language set forth in that Act in this Ordinance does not constitute a waiver of any right under the Act.

2. Applicability. The provisions of this Chapter shall only apply to activities of a wireless provider within the right-of-way to deploy SWFs and associated new utility poles with small wireless facilities

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attached.

3. Definitions. The following words and phrases when used in this Chapter shall have the meanings given to them in this Part unless the context clearly indicates otherwise:

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

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APPLICABLE CODES—Any of the following codes: (1) uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons. (2) Ferguson Township zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances.

APPLICANT—A communications service provider that submits an application.

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APPLICATION—A request submitted by an applicant to Ferguson Township:

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(1) for a permit to collocate small wireless facilities; or

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(2) to approve the installation, modification or replacement of a utility pole with small wireless facilities attached.

CABLE FACILITY—Buildings, other structures and equipment used by the owner or operator of a cable television system to provide service. As used in this definition, the term "cable system" shall have the meaning given to it in section 602(6) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(7)).

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COLLOCATION OR COLLOCATE—To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure.

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COMMUNICATIONS FACILITY—A set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide a communications service.

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COMMUNICATIONS SERVICE PROVIDER—Any of the following:

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(1) A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(5)).

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(2) A provider of information service as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(24)).

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(3) A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(51)).

(4) A wireless provider.

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

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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.

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FCC—The Federal Communications Commission.

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HISTORIC DISTRICT OR BUILDING—A building that is or a group of buildings, properties or sites

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that are:

- (1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register.
- (2) Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 CFR Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process).
- (3) Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical and museums).
- (4) Within a historic district created pursuant to the act of June 13, 1961 (P.L.282, No.167), entitled "An act authorizing counties, cities, boroughs, incorporated towns and townships to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts."

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MICRO WIRELESS FACILITY—A small wireless facility that:

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- (1) Does not exceed two cubic feet in volume; and
- (2) Has an exterior antenna no longer than 11 inches.

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MODIFICATION OR MODIFY—The improvement, upgrade or replacement of a small wireless facility or an existing utility pole that does not substantially change, as defined in 47 CFR 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the small wireless facility or utility pole.

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MUNICIPAL POLE—A utility pole owned, managed or operated by or on behalf of a municipality.

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RIGHT-OF-WAY—The area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property. The term does not include a Federal interstate highway.

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

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

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

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

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

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WIRELESS FACILITY—As follows:

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(1) Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following:

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(i) Equipment associated with wireless services.

(ii) Radio transceivers, antennas, coaxial or fiber optic cables, regular and backup power supplies or comparable equipment, regardless of technological configuration.

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(2) The term includes a small wireless facility.

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(3) The term does not include any of the following:

(i) The structure or improvements on, under or within which the equipment is collocated.

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(ii) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna.

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

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WIRELESS PROVIDER—A wireless infrastructure provider or a wireless services provider.

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

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WIRELESS SERVICES PROVIDER—A person who provides wireless services.

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WIRELESS SUPPORT STRUCTURE—The term shall have the same meaning given to it in the act of October 24, 2012 (P.L.1501, No.191), known as the Wireless Broadband Collocation Act.

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4. Application for the Use of Township Rights-of-Way and Associated Rates and Fees.

A. In accordance with the Small Wireless Facilities Deployment Act, and with the permission of the owner of the structure, upon application to and approval of the Township, a wireless provider shall have the right to perform the following within the public right-of-way:

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(1) Collocate a small wireless facility up on an existing utility pole or other support structure;

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(2) Replace an existing utility pole or install a new utility pole with attached small wireless facilities.

B. Application and Application Fees: No person shall place a SWF or associated utility pole in the ROW without first filing an application and obtaining a permit therefor, excepts as otherwise provided in this Chapter.

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(1) Application. All applications for the permits filed pursuant to this Chapter shall be on a form, paper or electronic, provided by the Township and shall contain at a minimum the following:

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- (a) The wireless provider's name, address, telephone number, and e-mail address.
 - (b) The applicant's names, address, telephone numbers, and e-mail address, if different.
 - (c) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.
 - (d) The name, address, telephone numbers, and e-mail address of the contractor(s) performing the work.
 - (e) A general description fo the proposed work and the proposed and intent of the small wireless facilities. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.
 - (f) A site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the ROW, including any manholes or poles, the size, type, and depth of any conduit or enclosure.
 - (g) A certificate of insurance naming Ferguson Township as additional insured with types of coverage and minimum amounts as determined by the Township.
 - (h) An attestation that the SWFs will be operational for use by a wireless services provider within one year after the permit issuance date unless the Township and the applicant agree to extend this period.
 - (i) An attestation that to the best of the applicant's knowledge, the information contained in the application is true.
 - (j) Whether each SWF is proposed to be installed on an existing pole or structure or a new pole or structure.
 - (k) The name of the owner of the pole or structure on which the SWF is proposed to be installed and the address, phone number, email address of the owner's contact person.
 - (l) If a SWF is proposed to be installed on a pole or structure owner by a party other than the applicant, the application shall be accompanied by a written confirmation of the owner's agreement to allow the applicant to locate each SWF on such owner's pole or structure.
 - (m) Documentation in the form of both narrative and drawings indicating the size of each proposed SWF, the height of the pole or structure on which each is proposed to be installed, and the cubic volume of each SWF.
- (2) Applications Fees: All applications filed for a permit pursuant to this Chapter shall include a one-time application fees, authorized by the Small Wireless Facilities Deployment Act, and subject to the fee adjustment requirements contained therein, as established by a Resolution of the Township Board of Supervisors.
- (3) Consolidated Applications. An applicant may submit a consolidated Application for up to 20 SWFs, subject to the following:
- (a) A single applicant shall not exceed applications for 20 SWFs in a 30-day period;
 - (b) The denial of one or more SWFs in a consolidated application shall not delay processing of any other SWFs in the same consolidated application;

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(c) A single permit may be issued for siting and collocating multiple SWFs spaced to provide wireless coverage in a contiguous area; and

(d) If multiple applicants submit applications cumulatively exceeding 20 SWFs applications within a 30-day period, the extensions to deadlines provided for in the Small Wireless Facilities Act shall apply.

(4) When Application Not Required. An application shall not be required for:

(a) Routine maintenance;

(b) The replacement of a small wireless facility with another small wireless facility that is substantially similar in size, weight, and height; or

(c) For the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code.

(d) However, all permits of general applicability otherwise required for the work required to accomplish the above, including but not limited to any pave-cut of right-of-way occupancy permit required under Chapter 21 of the Ferguson Township Code of Ordinance, Streets and Sidewalks. In all cases, whether under permit or not under permit, all work in the Township right-of-way shall be performed in accordance with PennDOT Publication 213, Temporary Traffic Control Guidelines, and flagmen shall be certified in the work they perform, and all workers shall wear approved high visibility safety gear.

C. Right-of-Way Use Fees. Wireless providers shall be required to pay an annual Wireless Use Fee for the use of right-of-way. The Wireless Use Fee shall be set by Resolution of the Township Board of Supervisors. The Township may amend the fee from time to time by resolution of the Township Board of Supervisors to a rate not to exceed the maximum rate which it demonstrates is a reasonable approximation of the Township's costs to manage the right-of-way, consistent with the law.

D. Township Pole Make-Ready-Fees. In accordance with the Small Wireless Facilities Deployment Act, collocation on Township-owned poles may be permitted unless the small wireless facility would cause structural or safety deficiencies to the municipal pole. Any application to collocate on a Township-owned pole requires certification from a structural engineer that the existing pole can safely handle the additional load and modification including pole penetrations and the structural integrity of the pole is not compromised. Should the pole require upgrades or make-ready-work for modification, all costs for the improvements shall be born by the applicant. The Township shall provide a good faith estimate for any make-ready-work necessary to enable a Township-owned pole to support the requested collocation within 60-days after receipt of a complete application. Make-ready-work, including pole replacement, shall be completed within 60-days of written acceptance of the good faith estimate by the applicant.

5. Action on Permit Applications.

A. Review of Small Wireless Facility and Utility Pole Applications.

(1) Within ten (10) days of receiving an initial application, the Township will determine and notify the applicant whether the application is materially complete. Each application shall be accompanied by a checklist from the applicant identifying all elements required in the application as required by the Township to be considered materially complete. The processing deadline set forth below shall restart at zero on the date which the applicant submits all documents and information identified by the Township to make the applicant complete. If the applicant fails to submit all required documents information within 20 days of the notification to the applicant, the Township may deny the application.

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(2) The Township shall approve or deny an application for:

(a) Collocation of SWFs on an existing structure within 60-days of receipt of a complete application, or;

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(b) Within 90-days of receipt of a complete application to replace an existing utility pole or install a new utility pole with small wireless facilities attached.

(3) An applicant and the Township may enter into a written agreement to toll the time periods set forth in Subsection (2).

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(4) The Township may deny a proposed collocation of a SWF or installation or modification of a utility pole only if the proposed application:

(a) The SWF materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State Standards regarding pedestrian access or movement.

(b) The SWF fails to comply with applicable codes.

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(c) The SWF fails to comply with the requirements specified under the Small Wireless Facilities Deployment Act.

(d) The applicant fails to submit a report by a qualified engineering expert which shows that the SWF will comply with applicable FCC regulations.

(5) The Township shall document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the Township denies an application. The applicant may cure the deficiencies identified by the Township and resubmit the application within 30-days of the denial without paying an additional application fees. The Township shall approve or deny the revised application within 30-days. Any subsequent review shall be limited to the deficiencies cited in the denial unless, the resubmitted application addresses or changes other sections of the application that were not previously denied, in which case the Township shall be given an additional 15-days to review the resubmitted application and may charge an additional fee for the review.

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(6) Permit Scope and Effect. Installation, modification, or collocations for which a permit is granted pursuant to this section shall be completed within one year after the permit issuance date unless the Township and the applicant agree to extend this period. Approval of an application authorizes the applicant to:

(a) Collocate on an existing utility pole, modify, or replace a utility pole or install a new utility pole with SWFs attached as identified in the initial application.

(b) Subject to the permit requirements and the applicant's right to terminate at any time, operate and maintain SWFs and any associated equipment on a utility pole covered by the permit for a period of five years, which shall be renewed for two additional five-year periods if the applicant is in compliance with the criteria set forth in the Small Wireless Facilities Deployment Act and applicable codes, and the applicant has obtained all necessary consent from the utility pole owners.

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(7) Authority Granted: No Property Right or Other Interest Created. A permit from the Township authorizes an applicant to undertake only certain activities in accordance with this Chapter and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the ROW.

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(8) Design Criteria and Permit Review.

(a) All SWF proposed under this Chapter must meet the following design criteria:

(i) Height: the installation of a SWF on an existing utility pole may not extend more than five (5') feet above the existing utility pole, if collection on an existing utility pole cannot be achieved, the maximum height permitted for the entire facility, including the utility pole and SWF including antenna facilities, may not be taller than fifty (50') feet. The Township Board of Supervisors may grant a waiver of this height requirements subject to applicable code.

(ii) SWF Size: Each antenna associated with the deployment (excluding the associated equipment) may be no more than three cubic feet in volume; and all other equipment associated with the facility (excluding antenna) are cumulatively no more than 28 cubic feet in volume.

(b) General Design Requirements.

(i) The Township may adopt by resolution Small Wireless Facility Design Guidelines with objective, technically feasible criteria applied in a non-discriminatory manner that reasonably match the aesthetics and character of the immediate area.

(ii) The Small Wireless Facility Design Guidelines may include examples of SWF preferences including visual depictions (if readily available and identified by the Township).

(iii) The provisions in this Chapter shall not limit or prohibit the Township's discretion to promulgate and make publicly available other information, materials, or requirements in addition to, and separate from, Small Wireless Facility Design Guidelines so long as the information, materials, or requirements do not conflict with federal or state law.

(iv) All SWFs and associated equipment located within the Public Right-of-Way shall be located such that it meets ADA requirements and does not hinder, obstruct or impede usual pedestrian and vehicular travel.

(v) The Township shall have the authority to update or supplement the Small Wireless Facility Design Guidelines to address relevant changes in law, technology, or administrative processes.

(c) Wireless Support Structure Design Standards

(i) General Guidance.

1. SWF equipment must be indistinguishable from the support pole or structure to the greatest degree possible using matching colors, textures, and materials. The antennas and related equipment shall be in a color that will provide the most camouflage.

2. All wires, antennas, and other small wireless facility equipment shall be enclosed and not visible.

3. Screening and equipment enclosures shall blend with or enhance the surrounding context in terms of scale, form, texture, materials, and color. Equipment shall be concealed as much as possible by blending into the natural and/or physical environment.

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- 4. Casing to enclose wires, antennas, and other small wireless facility equipment may be mounted on top of existing and new poles in a cylinder shape to look like an extension of the pole.
- 5. Signage of all SWF will be no larger than required to be legible from street level. It may include contact information to be used by workers on or near the SWF and as otherwise required by federal or state law.
- 6. As a condition for approval of new SWFs or new Wireless Support Structure in a Historic District, the Applicant shall comply, to the greatest extent possible, with the design and aesthetic standards of the Historic District, or historic preservation standards in place to minimize the negative impact to the aesthetics in these districts or areas.

6. Removal of Equipment.

- A. Within 60-days of a suspension or revocation of a permit due to noncompliance with applicable codes, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole, after receiving adequate notice and an opportunity to cure noncompliance. Surety, in a form acceptable to the Township, shall be posted by the applicant to cover the cost by the Township to remove the SWF and associated equipment, should the applicant fail to comply.
- B. Within 90-days of the end of a permit term or an extension of the permit term, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless and associated equipment are the only facilities on the utility pole. Surety, in a form acceptable to the Township shall be posted by the applicant to cover the cost by the Township to remove the SWF and associated equipment, should the applicant fail to comply.

7. Restoration of the Right-of-Way.

- A. Applicants are required to repair all damage directly caused by the activities of the applicant and return the right-of-way in as good of condition as it existed prior to any work being done. If the applicant fails to make the repairs required by the Township within 30-days after written notice, the Township may perform those repairs and charge the provider the reasonable, documented cost of the repairs plus a penalty not to exceed \$500. The Township may suspend the ability of an applicant to receive a new permit from the Township until the applicant has paid the amount assessed for the repair costs and the assessed penalty.

8. Indemnification.

- A. 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, operations, 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 judgements, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

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9. Other Ordinances.

A. Nothing in this Ordinance shall be interpreted to relieve any individual from compliance with all other ordinances, resolutions, laws, and regulations of the Township.

10. Severability.

A. The provisions of this ordinance are severable, and if any section, sentence, clause, part, or provisions hereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, or parts of this Ordinance. It is hereby declared to be the intent of the Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional sections, sentence, clause, part, or provisions had not been included herein.

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PLANNING AND ZONING

Staff Report

SUBJECT: Elder Cottages

PURPOSE: Review of Elder Cottage Regulations in Ferguson Township

EXECUTIVE SUMMARY: Staff conducted an evaluation of Elder Cottages, as defined in Chapter 27—Zoning, and how other communities regulate these uses. The evaluation consisted of a review of the Township’s existing regulations, general background information, zoning and land-use concerns, as well as, considerations the Planning Commission should review.

BACKGROUND:

The Department of Housing and Urban Development (HUD) introduced an Elder Cottages Housing Opportunity (ECHO) housing program in the 1980s and amended in 1993. The program was based on the “granny flats” program in Australia. Initially, five states participated in the pilot program. In 1981, Lancaster County’s Director of the Office of Aging, Peter Dyas, recognized the similarities of the granny flats idea with the Amish practice of placing a *grossmutter* house on the family farm. Lancaster County accommodated the practice by adopting an ordinance regulating elder cottages. The ECHO unit is a small house where an elderly person resides and is placed near the home of a host (either relatives or close friends of the elderly person). The purpose of this arrangement is to make it convenient for the family to aid the elderly person residing in the smaller ECHO house.

In 2018, The Pennsylvania Department of Aging awarded a \$500,000 grant to expand the Elder Cottage Housing Opportunity to Pennsylvania. Clearfield, Bedford, Centre and Huntingdon Counties were given the opportunity to build five ECHO units in each county as a part of the grant. The first unit was built in Sandy Township in Clearfield County. Sandy Township crafted zoning regulations to address size, location, and building requirements, as well as the approval process, occupants, and removal. The cottages were available through a local collaboration between the Pennsylvania Association of Area Agencies on Aging (P4A) and local housing partners to offer the Elder Cottage Housing Opportunities.

In July 2022, The Pennsylvania Department of Aging was awarded a \$230,000 grant for the expansion of the Elder Cottage Housing Opportunity project across the commonwealth and portions of the grant will be going towards existing projects in Centre County. The Centre County Office of Aging manages units locally and ECHO projects serve qualified (at least 60 years old, low income) adults that pay no more than 30 percent of their monthly income to reside in the cottage.

Ferguson Township:

Ferguson Township’s Zoning Ordinance defines an Elder Cottage/In-Law Quarters/Carriage House (Accessory Dwelling Unit) as an apartment, not less than 600 square feet, sharing utility connections with a principal building. The unit(s) may be within an outbuilding that are typically located toward the rear of the same lot as the principal building and these accessory dwellings do not count towards density calculations

Elder cottages are considered accessory dwelling units. Accessory dwelling unit can be attached or detached. An accessory dwelling unit is defined as a dwelling unit which has been authorized to be established pursuant to Chapter 27, which is occupied by a person(s) related by blood or marriage to the resident/owner of the dwelling unit to which the accessory dwelling unit is subordinate, or which is occupied by a person(s) employed to provide

health care, domestic housekeeping or horticultural services to the resident/owner of, and on the site of, the resident/owner's dwelling unit.

Ferguson Township allows accessory dwelling units in the Rural Residential (RR), Rural Agricultural (RA) and Traditional Town Development (TTD) zoning districts. The RR and RA zoning districts are primarily located in the rural parts of the Township and not near businesses, doctors, and other medical offices. There is also limited public transit services to these rural areas.

CONSIDERATIONS:

Staff's research has indicated that difficulties that have resulted from permitting ECHO units are when the units are no longer needed. When an ECHO unit is no longer needed due to death of the resident or other family problems, the unit is relocated, and the lot is returned to its original state. Questions of when to require its removal, could the unit be mobile and not on a foundation, how are utilities incorporated in these units (separate connections or extensions of the host house all present additional areas of research. Is an ECHO unit an additional EDU? Would this require a planning module in rural areas? Constructing a foundation would trigger stormwater requirements.

The intent of Elder Cottages is to provide an affordable housing option for family members who wish to remain close to their core family or loved ones. Separate regulations and definitions could be established for different designations. Some municipalities make Elder Cottages a conditional use in certain zoning districts.

STAFF ANALYSIS: At this time, there are too many unknown variables for staff to make a recommendation on amendments to the zoning code. Additional outreach to other agencies, including UAJA, SCBWA and Centre Region Code Agency are still needed to ensure that these types of units are feasible. Based upon the foregoing information, staff recommends Planning Commission discuss the considerations above, discuss the pros and cons of each, and offer other considerations (location, size removal).

Primary Author:

Kristina Bassett | Community Planner, 814-238-4651 or kbassett@twp.ferguson.pa.us

Reviewed/Approved By:

Jenna Wargo, AICP | Director of Planning & Zoning

DUPLEX RESIDENTIAL UNIT

Single-family semidetached dwelling unit.

DWELLING

Any building or portion of a building designed and used as a residence(s) and having separate living, cooking and sanitary facilities, used as living quarters.

DWELLING UNIT

A dwelling used by one family or single housekeeping unit.

1. **SINGLE-FAMILY DWELLING** A single dwelling unit occupying the building from ground to roof.
 - A. **DETACHED** Each dwelling unit has open space on all sides.
 - B. **ATTACHED** Both side walls of all except the dwelling units at the ends of the building are party walls.
 - C. **SEMIDETACHED** One side of each dwelling unit is a party wall in common with an adjoining dwelling unit.
2. **TWO-FAMILY DWELLINGS** Two dwelling units, one above the other.
3. **MULTIFAMILY DWELLINGS** Three or more dwelling units, with the units stacked one above another.

EATING AND DRINKING ESTABLISHMENT

A place open to the general public for the sale and consumption on the premises of food and/or beverages, which includes restaurants, bars, and tavern establishments.

EATING AND DRINKING ESTABLISHMENT, SIT-DOWN

An eating and drinking establishment where the principal business is the sale of food and beverages with waited table service or where less than 1/3 of sales are to patrons for off-premise consumption (carryout or delivery). Menus for such restaurants are often provided individually to on-premise patrons at their tables, or food may be selected from a buffet table or cafeteria line.

EATING AND DRINKING ESTABLISHMENT, TAKEOUT

An eating and drinking establishment where the principal business is the rapid preparation, turnover, and sale of food and/or beverages without waited table service and where over 1/3 of sales are to patrons for off-premise consumption (carryout or delivery). Menus for quick-service restaurants are posted, and food and beverages served at such restaurants are usually ordered at a counter and contained in disposable containers or packaging, with on-premise patrons typically expected to clean up after themselves.

ELDER COTTAGE/IN-LAW QUARTERS/CARRIAGE HOUSE (ACCESSORY DWELLING UNIT)

An apartment, not less than 600 square feet, sharing utility connections with a principal building. Such unit(s) may be within an outbuilding (usually located toward the rear of the same lot as the principal building). These accessory dwelling units do not count toward density calculations.

ZONING

27 Attachment 2

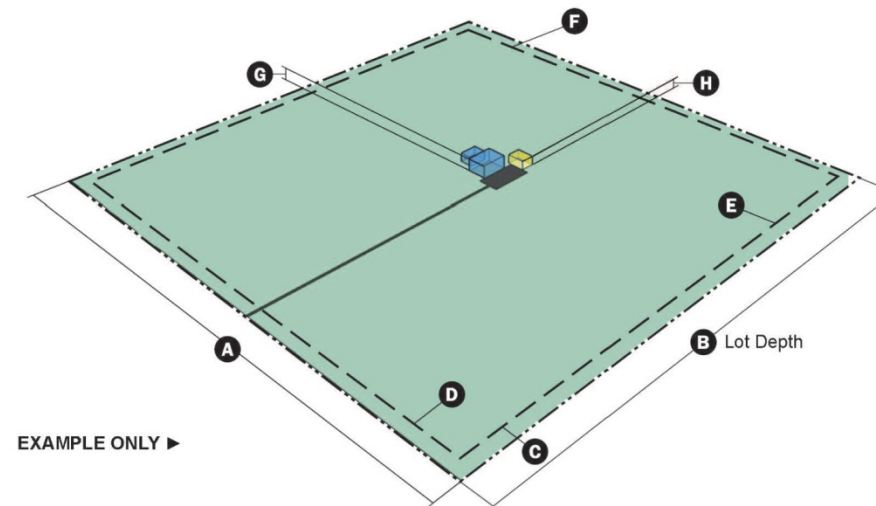
Township of Ferguson

§ 27-205.2 Rural Residential (RR) District Quick

AREA AND BULK CATEGORY	PRINCIPAL USES	ACCESSORY USES			
		Use			
1	Agriculture	P			
1	Agriculture Related Production	C			
1	Bird and Wildlife Sanctuaries/Fish Hatcheries	P			
1	Cideries/Wineries/Tasting Facilities	P			
1	Commercial Hunting Preserves	C			
1	Conservation Areas	P			
1	Equestrian Facility	P			
1	Forestry	P			
1	Group Homes	P			
1	Park and Outdoor Recreational Facilities, Regional, Public	P			
1	Places of Assembly, Regional	C			
1	Single-Family Detached Dwellings	P			
2	Community Gardens	P			
2	Emergency Services	P			
2	Essential Services – Type 1	P			
2	Farm Cafés	C			
2	Farm Markets	C			
2	Landscape and Garden Center- Retail	P			
2	Landscape and Garden Center- Non Retail	C			
2	Park and Outdoor Recreational Facilities, Neighborhood, Public	P			
2	Park and Outdoor Recreational Facilities, Community, Public	P			
2	Personal Care Homes, Large	P			
2	Pet Care Services Facility	C			
2	Places of Assembly, Community	P			
2	Solar Energy Systems (PSES)	C			
2	Veterinary Offices/Clinics	P			
2	Water Production Facilities	C			
3	Single-Family Detached Dwellings	P			
3	Seasonal Dwellings	P			
3	Personal Care Homes, Small	P			
4	Communication Towers	P			
4	Wind Energy Systems	C			
5	Mining and Quarrying	C			
	Accessory Use Customarily Incidental to the Specified Principal Use	P	P	P	P
	Agriculture/Environmental Education Program	P	P	C	P
	Agriculture	P	P		P
	Agritourism	P	P		P
	Bed and Breakfasts (10 rooms max.)	P	P	P	
	Building- and Ground-Mounted Solar and/or Wind Systems	P	P	P	P
	Cemeteries	P	P		
	Cideries/Wineries/Tasting Facilities	P			
	Commercial Hunting Preserve	C			
	Community Garden	P	P	P	P
	Community-Supported Agriculture Delivery Station	P	P	P	
	Composting – Small Scale	P	P		P
	Day and Overnight Camping	P	P		
	Dwelling Unit	P			
	Essential Services – Type 2	C	C		C
	Family Child-Care Homes	P	P	P	
	Farm Cafés	P	P		
	Farm Markets	C	C		
	Farm Stands by Road <2,000 SF	P	P	C	
	Farm Stands by Road >2,000 SF	P	P	P	
	Farm Structures, Traditional-Scale	P	P		
	Farm Structures, Non-Traditional-Scale	C	C		
	Food Trucks	P	P	P	
	General Storage to include Boat and RVs	P	P		
	Group Child-Care Homes	P	P	P	
	Home-Based Business, No-Impact (including Farm-Based Business, No Impact)	P	P	P	
	Home Occupation – Type 1	P	P	P	
	Home Occupation – Type 2	P	P	P	
	Horse Riding Stables/Riding Academies	P	P	P	
	Kennel	C			
	Non-Commercial Keeping of Livestock	P	P	P	P
	Raising of Chickens			P	
	Retail Establishments, Agriculture-Supported	P	P		
	Retail Establishments, Value-Added Agriculture	P	P		
	Personal Care Homes, Small			P	
	Seasonal Dwellings	P	P	P	
	Short-Term Rentals	P	P	P	
	Silos	P	P		P
	Sugar Shacks for Processing Sap from Trees on Different Lot	P	P		
	Sugar Shacks for Processing Sap from Trees on Lot	P	P		
	Two-Family Dwellings			P	
	Welding Shops, Small Engine Repair	P	P		

DIMENSIONS		AREA AND BULK CATEGORIES					
		1	2	3	4	5	
Minimum	Lot Size	10 ac	3 ac	1 ac	n/a	20 ac	
	Lot Width	at Building Setback Line	150 ft	150 ft	150 ft	n/a	n/a
		at Street Line	150 ft	150 ft	100 ft	n/a	n/a
	Setback	Front Yard, for Principal Use on Local/Collector Street	50 ft	50 ft	20 ft	500 ft	100 ft
Front Yard, for Principal Use on Arterial Street		50 ft	50 ft	50 ft	500 ft	100 ft	
Side Yard, for Principal Use		50 ft	30 ft	30 ft	500 ft	300 ft	
Rear Yard, for Principal Use		75 ft	75 ft	30 ft	500 ft	300 ft	
Maximum	Height	Principal Structure	50 ft	50 ft	50 ft	200 ft	n/a
		Accessory Structure	60 ft	40 ft	40 ft	20 ft	n/a
	Coverage	Building	n/a	30%	30%	n/a	n/a
Impervious Surface		5%	30%	30%	n/a	n/a	

AREA AND BULK CATEGORIES:
 1 – agricultural and conservation activities
 2 – non-residential uses
 3 – dwellings
 4 – utility and communication facilities



EXAMPLE ONLY ▶

P = Permitted Use by Right C = Conditional Use SE = Use by Special Exception