

**UPPER LEACOCK TOWNSHIP
LANCASTER COUNTY
COMMONWEALTH OF PENNSYLVANIA**

Ordinance No. 2022-02

**AN ORDINANCE OF UPPER LEACOCK TOWNSHIP,
LANCASTER COUNTY, PENNSYLVANIA, TO ALLOW
FOR AND TO REGULATE SMALL WIRELESS FACILITIES
WITHIN THE PUBLIC RIGHTS-OF-WAY IN THE TOWNSHIP**

WHEREAS, Upper Leacock Township (hereinafter "Township") is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Legislature of the Commonwealth vests the Township with the power and authority to make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as is expedient or necessary for the proper management, care and control of, inter alia, the Township's finances, the maintenance of peace, good government, safety and welfare of the Township, its trade, commerce and manufactures; and

WHEREAS, Act 50 of 2021 provides for deployment of Small Wireless Facilities in the State of Pennsylvania and allows for local regulation of certain design and district placement, and fees for the use of the public right-of-way; and

WHEREAS, the Board of Supervisors of the Township has determined that it is in the public interest to provide for design standards and fees for use of the public right-of-way in accordance with the Act.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Leacock Township as follows:

Section 1. PURPOSE AND INTENT

A. The purpose of this Ordinance 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 Small Wireless Facilities ("SWF") in the public right-of-way of streets and roads.

B. The intent of this Ordinance is to:

(1) Establish basic criteria for applications to install and/or collocate SWF in the public right-of-way;

(2) Ensure that SWF 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 SWF 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 SWF 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 city corridors, and other public ways and places.

C. Zoning. Applications to collocate a small wireless facility 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. Any other wireless facilities not meeting the definition of a small wireless facility shall remain subject to applicable zoning requirements.

D. This Ordinance 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 rights under the Act.

Section 2. **APPLICABILITY**

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

Section 3. **DEFINITIONS**

The following words and phrases when used in this Ordinance shall have the meanings given to them in this section 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.

"Applicable codes." Any of the following:

(1) Uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(2) Upper Leacock Township zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances.

"Applicant." A communications service provider that submits an application.

"Application." A request submitted by an applicant to the Township

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

(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)].

"Code Enforcement Officer." The person designated by the Township Board of Supervisors to administer this ordinance.

"Collocation" or "collocate." To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure.

"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.

"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 [47 U.S.C. § 153(51)].
- (4) A wireless provider.

"Decorative pole." A municipal pole that is specially designed and placed for aesthetic purposes.

"FCC." The Federal Communications Commission.

"Historic district or building." A building that is or a group of buildings, properties or sites 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 Historic District 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."

"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.

"Municipality." Upper Leacock Township.

"Municipal pole." A utility pole owned, managed or operated by or on behalf of Upper Leacock Township.

"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.

"Small wireless facility." The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:

- (1) Each antenna associated with the deployment is no more than three cubic feet in volume.
- (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.

"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.

"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.

"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 collation. 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.

“Wireless facility.” As follows:

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

(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.

(2) The term includes a small wireless facility.

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

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

(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.

“Wireless provider.” A wireless infrastructure provider or a wireless services provider.

“Wireless services.” Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using wireless facilities.

“Wireless services provider.” A person who provides wireless services.

“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.

Section 4. **RIGHT-OF-WAY RATES AND FEES**

Wireless providers shall be required to pay an annual fee for the use of the right-of-way. The annual right-of-way fee shall initially be \$270 per small wireless facility or \$270 per new

utility pole with a small wireless facility. The Township may amend the fee from time to time by resolution of the Board of Supervisors to a rate not to exceed the maximum rate which is found to be permitted by the Federal Communications Commission and/or Small Wireless Facilities Deployment Act. The annual fee shall become effective beginning on January 1, 2022, and shall be imposed for each calendar year or portion thereof during which a small wireless facility is located in a right-of-way. The owner of each small wireless facility installed within the Township shall be responsible to pay such right-of-way fee whether or not such provider receives an invoice from the Township. The fee will be due by January 31 of the calendar year for the calendar year to which the fee relates.

A. The failure to pay the annual right-of-way fee shall be a violation of this section and shall be subject to the penalties and remedies in this section.

B. If the annual right-of-way fee is not paid in full by January 31 of the calendar year, a penalty of ten percent (10%) of the annual fee shall be added. If the annual fee plus penalty is not paid in full by March 31 of the calendar year, interest at the rate of one percent (1%) per month shall continue until the annual right-of-way fee, penalty, and interest are paid in full.

C. The annual fee shall be adjusted upward by resolution of the Board of Supervisors if authorized by Section 7(c) of the Act.

D. The owner of each small wireless facility installed within a right-of-way on the effective date of this section shall provide the Township with a report identifying each existing small wireless facility identifying the location of such small wireless facility, the dimensions of such small wireless facility, and the date of installation of the small wireless facility. This report shall include the name and contact information for the owner of the small wireless facilities, including the address to send invoices for the annual right-of-way fee and any notices under this section.

E. The owner of each small wireless facility shall provide the Township with up-to-date contact information. If ownership of a small wireless facility changes, the new owner of the small wireless facility shall provide notice and new contact information to the Township within 30 days.

Section 5. RIGHT OF ACCESS

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

- (1) Collocate a small wireless facility.

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

B. Collocation. In accordance with the Small Wireless Facilities Deployment Act, collocation on Municipality-owned poles may be permitted unless the small wireless facility would cause structural or safety deficiencies to the municipal pole, in which case the Township and applicant shall work together for any make-ready work or modifications or replacements that are needed to accommodate the small wireless facility.

C. All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the municipality and utilities.

Section 6. **PERMITTED USE; APPLICATION AND FEES**

A. Permit Required. No person shall place a small wireless facility or associated utility pole in the right-of-way, without first filing an application and obtaining a permit therefore, except as otherwise provided in this Ordinance.

B. Application. All applications for permits filed pursuant to this Ordinance shall be on a form, paper or electronic, provided by the Code Enforcement Officer.

C. Application Requirements. An application shall be made by the wireless provider or its duly authorized representative, and shall contain the following:

(1) The wireless provider's name, address, telephone number, and email address.

(2) The applicant's name, address, telephone number and email address, if different than the wireless provider, and its interest in the work.

(3) The names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.

(4) A general description of the proposed work and the purposes and intent of the small wireless facility. 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.

(5) A site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the right-of-way, including any manholes or poles, the size, type and depth of any conduit or enclosure.

(6) An attestation that the small wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date, unless the Township and the applicant agree to extend this period.

(7) An attestation that, to the best of the applicant's knowledge, the information contained in the application is true.

(8) Whether each SWF is proposed to be installed on an existing pole or structure or a new pole or structure.

(9) 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.

(10) If a SWF is proposed to be installed on a pole or structure owned 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.

(11) Documentation in 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.

(12) A report by a qualified engineering expert which shows that the small wireless facility will comply with all applicable FCC regulations. The report must identify the person who prepared the report and his or her qualifications.

(13) Construction drawings and supplemental information demonstrating compliance with Section 3 of the Act, the UCC (including as applicable a complete UCC permit application) and this section.

(14) Plan showing the proposed small wireless facility installation sealed by a professional engineer which shall contain a certification that after installation of the facility any sidewalk, curb, or curb cuts which may be impacted will comply with the ADA after installation of the small wireless facility. The plan shall meet all of the following requirements and include all of the following information:

1. Existing right-of-way width, sidewalk, curbing, and cartway with sufficient information to demonstrate that the small wireless facility will be located completely

within the existing public street right-of-way and will not interfere with the same operation of traffic control equipment, sight lines, or clear zones for vehicles or pedestrians.

2. Location of all storm water management facilities within the public street right-of-way including swales, inlets, rain gardens, and pipes, with sufficient information to demonstrate that the small wireless facility will be located and installed in a manner that will not interfere with existing storm water management facilities.

3. Location of utility facilities within the public street right-of-way including but not limited to public water and sewer facilities, including all hydrants and manholes with sufficient information to demonstrate that the small wireless facility will be located and installed in a manner that will not interfere with existing utility facilities.

4. Location of any driveway, mailbox, or utility serving the abutting property.

(15) Where the application proposes co-location on an existing utility pole which is not a municipal pole, written permission from the owner of the existing pole.

(16) Where the application proposes the installation of a new utility pole, a self-certification that the applicant has determined in good faith that it cannot meet its service reliability and functional objectives of the application by co-locating on an existing utility pole or municipal pole. This self-certification shall include documentation of the basis of the determination which shall identify all existing utility poles and municipal poles in the vicinity and why they are not suitable.

(17) The fee established by the ordinance.

D. When Application Not Required. An application shall not be required for: (i) routine maintenance; (ii) the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight, and height; or (iii) 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.

A permit may be required to perform work within the right-of-way for the activities under Paragraph D for work that involves excavation, closure of a sidewalk or closure of a vehicular lane.

E. Application Fees. All applications for permits shall be accompanied by a fee of \$500 for a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five; and \$1,000 in non-recurring fees

for each new associated utility pole. The fees established by this section shall be adjusted upward by resolution of the Township.

F. Consolidated Applications. An applicant may submit a consolidated application for up to 20 Small Wireless Facilities.

(1) A single applicant shall not exceed application for 20 small wireless facilities in a 30-day period.

(2) The denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application.

(3) A single permit may be issued for siting and collocating multiple Small Wireless Facilities spaced to provide wireless coverage in a contiguous area.

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

Section 7. **ACTION ON PERMIT APPLICATIONS**

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

(1) Within ten (10) days of receiving an initial application, Township will determine and notify the applicant whether the application is materially complete. If an application is materially incomplete, the Township will specifically identify the missing documents or information, and the specific rule or regulation creating the obligation to submit such documents or information. The shot clock set forth in Subsection (2) below shall restart at zero on the date which the applicant submits all the documents and information identified by the Township to make the application complete. If the applicant's supplemental submission fails to make the application complete, and the Township notifies the applicant within ten (10) days of the supplemental submission and clearly and specifically identifies the missing documents or information, the applicable shot clock set forth in Subsection (2) below shall be tolled until the applicant provides the missing documents and information. The shot clock resumes (the date calculation does not restart) to run on the date when the applicant submits all the documents and information identified by the Township to render the application complete.

(2) All applications shall be processed on a non-discriminatory basis, and the Township shall approve or deny an application for: (i) collocation of Small Wireless Facility on an existing structure within sixty (60) days of receipt of the application, or (ii) within ninety (90) days for applications to deploy a Small Wireless Facility using a new structure.

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

(4) If the Township fails to issue a decision on an application for a Small Wireless Facility within the required time periods set forth in Paragraph A (2) of this Section 7, it shall constitute a deemed approval.

(5) The Township may deny a proposed collocation of a small wireless facility or installation or modification of a utility pole only if the proposed application:

(i) The small wireless facility 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.

(ii) The small wireless facility fails to comply with applicable codes.

(iii) The small wireless facility fails to comply with the requirements specified under the Small Wireless Facilities Deployment Act.

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

(6) The Township must 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 thirty (30) days of the denial without paying an additional application fee. The Township shall approve or deny the revised application within thirty (30) days. Any subsequent review shall be limited to the deficiencies cited in the denial.

(7) The applicant may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review or the resubmitted application shall be deemed approved thirty (30) days after resubmission. Any subsequent review shall be limited to the deficiencies cited in the denial. If the resubmitted application addresses or changes other sections of the application that were not previously denied, the Township shall be given an additional fifteen (15) days to review the resubmitted application and may charge an additional fee for the review.

B. Permit Scope and Effect. The Code Enforcement Officer shall review and act upon the application in accordance with the Act. If the application meets all requirements of the Act and this Ordinance, the Code Enforcement Officer shall issue a permit to authorize installation of the small wireless facility and an invoice for the right-of-way fee for the small wireless facility.

Installation, modification, or collocation for which a permit is granted pursuant to this section shall be completed within one (1) 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:

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

(2) Subject to the permit requirements and the applicant's right to terminate at any time, operate and maintain small wireless facilities and any associated equipment on a utility pole covered by the permit for a period of five (5) years, which shall be renewed for two (2) additional five (5)-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 owner.

C. 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 Ordinance 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 right-of-way.

Section 8. **DESIGN CRITERIA AND PERMIT REVIEW**

Upon receipt of a completed application for a SWF Permit and all required fees, the Township Manager and/or the Township Engineer, or his or her respective designee, shall review the application to determine whether the proposed SWF and support structure or pole comply with the following design criteria:

(1) The structure on which antenna facilities are mounted: (a) an existing utility pole, provided the installation does not extend more than five (5) feet above the pole; and (b) a new or replacement pole is not taller than fifty (50) feet. Any height in excess of these limits shall require application to the Zoning Hearing Board for a variance.

(2) Each antenna associated with the deployment (excluding the associated equipment) may be no more than three (3) cubic feet in volume.

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

(4) The small wireless facility and all associated equipment shall meet the size limits and height limits of the Act.

(5) The small wireless facility 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 right-of-way. This shall include, but not be limited to, any interference with compliance with the ADA.

(6) A new pole shall not be located within 10 feet of an existing driveway or street intersection. A new pole shall not be located within any storm water management facility including, but not limited to, any swale or rain garden. A new pole shall not be located within 18 inches of the face of the curb.

(7) All equipment of the small wireless facility which is mounted on a pole shall have a clearance of not less than 18 feet if located over a cartway and not less than 10 feet if not located over a cartway.

(8) Ground-mounted accessory equipment, walls, or landscaping shall not be located within any storm water management facility including, but not limited to, any swale or rain garden or within 18 inches of the face of the curb.

(9) A new pole or ground-mounted accessory equipment, walls or landscaping shall not be located on an easement extending onto the lot adjoining the right-of-way without the written permission of the easement holder.

(10) Ground-mounted accessory equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features. Any required electrical meter cabinets shall be screened to blend in with the surrounding area. Ground-mounted accessory equipment shall not interfere with access to any driveway or mailbox.

(11) All underground facilities shall be designed and installed in a manner which will not require the removal or relocation of any storm water management facility or underground utility.

General Design Requirements

A. 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.

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

C. The provisions in this Ordinance 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 to not conflict with state or federal law.

D. All Small Wireless Facilities 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.

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

F. Wireless Support Structure Design Standards - 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.

(4) Casing to enclose all 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) Brand logos and other signage are prohibited on all SWF except contact information to be used by workers on or near the SWF and as otherwise required by federal or state law. Signage will be no larger than required to be legible from street level.

(6) As a condition for approval of new Small Wireless Facilities 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.

Section 9. MAINTENANCE OF SMALL WIRELESS FACILITIES

The wireless provider shall maintain the small wireless facility in a manner that meets or exceeds all of the design standards of this section and all standards of the UCC. If the small wireless facility is the only facility on a pole, the wireless provider shall maintain the pole in accordance with this section and all applicable requirements. The wireless provider shall remove any graffiti on the small wireless facility, including but not limited to ground-mount accessory equipment, within 30 days after notice from the Township to do so.

Section 10. DAMAGE TO EXISTING FACILITIES AND INDEMNIFICATION

A. A wireless provider shall repair all damage to the right-of-way or any other land so disturbed, directly caused by the activities of the wireless provider or the wireless provider's contractors, including installation of the small wireless facility or the failure to properly maintain the small wireless facility, and return the right-of-way in as good a condition as it existed prior to any work being done in the right-of-way by the wireless provider or damage resulting from the failure to maintain the small wireless facility. If the wireless provider fails to make the repairs required by the Township within 30 days after written notice, the Township may perform those repairs and charge the wireless provider the reasonable, documented cost of the repairs plus a penalty of \$500. The wireless provider who has failed to make the required repairs shall not be eligible to receive a new permit from the Township until the wireless provider has paid the amount assessed for the repair costs and the assessed penalty or deposited the amount assessed for the repair costs and the assessed penalty in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

B. A wireless provider shall fully indemnify and hold the Township and its officers, employees and agents harmless against any claims, lawsuits, judgments, costs, liens, expenses or fees or any other damages caused by the act, error or omission of the wireless provider or its officers, agents, employees, directors, contractors or subcontractors while installing, repairing or maintaining small wireless facilities or utility poles within the right-of-way.

Section 11. REMOVAL OF EQUIPMENT

A. Within sixty (60) days of suspension or revocation of a permit due to non-compliance 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 any non-compliance.

B. Within ninety (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 facilities and associated equipment are the only facilities on the utility pole.

Section 12. RESTORATION OF RIGHT-OF-WAY

Applicants are required to repair all damage directly caused by the activities of the applicant and return the right-of-way in as good a condition as it existed prior to any work being done. If the applicant fails to make the repairs required by the Township within thirty (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.

Section 13. VIOLATIONS AND PENALTIES

A. Violations. It shall be a violation of this section to do or permit the following:

1. To install a small wireless facility prior to obtaining the permit required by this section.
2. To install a small wireless facility in a manner other than that authorized by the permit.
3. To place any false or misleading information on an application including, but not limited to, incorrectly identifying the right-of-way width, the identity of the owner of a utility pole, the precise location of the utility pole, or the size and location of any proposed or existing equipment.
4. To fail to make any payment required by this section or to make a payment by a means which is later dishonored.
5. To violate any other provision of this section.

B. Penalties. Any person who violates or permits the violation of any provision of this section shall be liable upon summary conviction therefor to fines and penalties of not less than \$100.00 nor more than \$1,000.00 plus all costs of prosecution, including attorneys' fees, which costs, fines, and penalties may be collected as provided by law. Each day that a violation continues and each section of this section which is violated constitutes a separate violation.

Section 14. **OTHER ORDINANCES**

Nothing in this Ordinance shall be interpreted to relieve any individual from compliance with all other ordinances, resolutions, laws and regulations of the Township, the County of Lancaster, the Commonwealth of Pennsylvania, or the United States.

Section 15. **REPEALER**

All ordinances, resolutions, and parts of ordinances and resolutions inconsistent herewith are hereby repealed.

Section 16. **SEVERABILITY**

The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision 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 Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included therein.

Section 17. **ADOPTION**

This Ordinance shall become effective immediately upon its enactment.

ENACTED AND ORDAINED this 17th day of March, 2022.

UPPER LEACOCK TOWNSHIP

By: Ronald J. Simmons

(Vice) Chairman

ATTEST:

[Signature]
(Asst.) Secretary
Township Manager