

**CHANCEFORD TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2022-02

**AN ORDINANCE REGULATING SMALL WIRELESS FACILITIES
AND THEIR USE OF PUBLIC RIGHT-OF-WAY**

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Chanceford Township, York County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

SECTION 1. Legislative Intent. The Board of Supervisors enacts this Ordinance to govern use of small wireless facilities within the public street rights-of-way in accordance with PA Act 50 of 2021, the Small Wireless Facilities Deployment Act (hereinafter “the Act”). The Supervisors desire to regulate the public street rights-of-way in an appropriate manner allowed by the Act, and to limit conflicts with other uses of the public street rights-of-way.

SECTION 2. Definitions. All words and phrases not otherwise defined herein shall have the meanings set forth in Section 2 of the Act.

ACT – The Small Wireless Facilities Deployment Act, the Act of June 30, 2021, P.L. 232, No. 50, 53 P.S. §11704.1 *et seq.*, and as may be amended in the future.

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.

WIRELESS PROVIDER – A party who provides wireless infrastructure or a wireless communications service provider using Small Wireless Facilities who/which has been granted a permit pursuant to this Ordinance.

SECTION 3. Permit Application Requirements. Any party which desires to install a Small Wireless Facility within a Township or public right-of-way, whether by co-location or by the installation of a new utility pole, shall submit to the Township an application in writing for a permit with the Township, which application shall provide all relevant information required by the Township on an application form provided by the Township. To be considered complete, an application shall include: sufficient information for the Township to identify placement of any new

or existing utility pole or other structure supporting the Small Wireless Facility; the location of any public right-of-way and/or any private access; identification of parties and those responsible for the application; any other information required by the Township application; and any fee established by this Ordinance.

SECTION 4. Consideration of Application and Issuance of Permit. The Township shall review and act on the application subject to the time and other requirements set forth in the Act. Upon issuance of a permit approval by the Township to the Applicant, and subject to the permit requirements and the Wireless Provider's right to terminate at any time, the permit shall grant the Wireless Provider authorization to operate and maintain the Small Wireless Facility and any associated equipment for a period of five years, renewable for two additional five-year periods if the permit holder is in compliance with the criteria set forth in this Article and the Act.

SECTION 5. Design Standards. All Small Wireless Facilities to be installed and maintained within the right-of-way shall meet all of the following requirements:

- A. The Small Wireless Facility and all associated equipment shall meet the size and height limits of the Act including but not limited to not exceeding fifty (50') feet in height.
- B. 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.
- C. Any new pole, and all equipment related to the Small Wireless Facility (1) 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; (2) shall not be located within 10 feet of an existing driveway or street intersection; (3) shall not be located within any storm water management facility including, but not limited to, any swale or rain garden; and (4) shall not be located within 18 inches of the face of the curb.
- D. Any underground facilities shall be designed and installed in a manner which will not interfere with any storm water management facility or underground utility.
- E. A Wireless Provider shall repair all damage to the right-of-way or any other land so disturbed and return the right-of-way to as good of 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 Municipality within 30 days after written notice, the Municipality may perform those repairs and charge the Wireless Provider the reasonable, documented cost of the repairs plus a penalty of \$500.
- F. A Wireless Provider shall fully indemnify and hold the Municipality and its officers, employees and agents harmless against any claims, liens, expenses or fees or any other damages caused by the action the Wireless Provider or its agents or employees.

SECTION 6. Fees.

- A. Application Fee. An Applicant for a permit to install a Small Wireless Facility shall include the following fees with its application:
 - 1. Fee per Small Wireless Facility: \$100.
 - 2. For application requiring installation of a new or replacement utility pole: \$200, plus payment of all applicable zoning and inspection fees.

- B. Annual Fee. In accordance with Section 3(c) of the Act, the Township hereby imposes an annual fee for the use of right-of-way in the amount of \$250 per Small Wireless Facilities on one pole. The annual fee shall become effective beginning on January 1, 2023, and shall be imposed for each calendar year or portion thereof during which a Small Wireless Facility is located in a right-of-way, and payment shall be due by January 31. The owner of each Small Wireless Facility installed within the Municipality shall be responsible to pay such right-of-way fee whether or not such provider receives an invoice from the Municipality. The failure to pay the annual right-of-way fee shall be a violation of this Article and shall be subject to the penalties and remedies in this Article, as well as a penalty of ten (10%) percent of the annual fee and, for nonpayment after March 31 of the calendar year, interest at the rate of one (1%) percent per month until any fee and penalty are paid in full.

- C. Any fee may be adjusted by resolution of the Township as authorized by Section 7(c) of the Act. The owner of each Small Wireless Facility shall provide the Municipality with up-to-date contact information, and if ownership of a Small Wireless Facility changes, the notice and contact information shall be updated within 30 days.

SECTION 7. Removal of Small Wireless Facilities from Right-of-Way.

- A. Within 60 days of suspension or revocation of a permit due to noncompliance with this article or the Act, or within 90 days of the end of a permit term or an extension of the permit term, the Wireless Provider shall remove the Small Wireless Facility and any associated equipment, including the utility pole and any support structures if the permit holder's wireless facilities and associated equipment are the only facilities on the utility pole.

- B. A Wireless Provider which elects to discontinue the use of a Small Wireless Facility shall notify the Municipality in writing not less than 45 days prior to the discontinuance of use of the Small Wireless Facility, which notice shall specify when and how the Wireless Provider will remove the Small Wireless Facility and, if applicable, the pole. The Wireless Provider shall complete the removal within 45 days of the discontinuance of the use of the Small Wireless Facility.

SECTION 8. Violations and Penalties. Any Person who violates or permits the violation of any provision of this Ordinance, including but not limited to (a) installation of a Small Wireless Facility without obtaining the permit; (b) installation of a Small Wireless Facility in a manner other than that authorized by the permit; (c) any false or misleading information on an application; shall

be liable upon summary conviction therefor to fines and penalties of not less than \$500.00 nor more than \$1,000.00 plus all costs of prosecution, including attorneys' fees, which costs, fines, fees and penalties may be collected as provided by law. Each day that a violation continues and each Section of this Ordinance that is violated constitutes a separate violation.


SECTION 9. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect. All Ordinances or parts of Ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affect this Ordinance. This Ordinance shall become effective immediately.

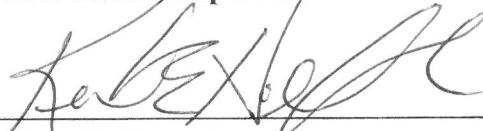
ENACTED AND ORDAINED this 13 day of June 2022, by the BOARD OF SUPERVISORS of CHANCEFORD TOWNSHIP, York County, Pennsylvania in lawful session duly assembled.

Attest:

CHANCEFORD TOWNSHIP


Secretary


Eric Bacon, Supervisor


Kent Heffner, Supervisor


David Warner, Supervisor