

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

Part 1

Community Antenna Television System

\$101. Grant of License/Purpose.....13-1-1
\$102. Definitions.....13-1-1
\$103. Duration of License.....13-1-2
\$104. Area of Operation.....13-1-4
\$105. Work Within Streets and Rights-Of-Way.....13-1-4
\$106. Construction.....13-1-5
\$107. Signal Quality.....13-1-6
\$108. Operations.....13-1-6
\$109. Indemnification and Insurance.....13-1-7
\$110. Fees.....13-1-7
\$111. Records and Receipts.....13-1-8
\$112. Transfer.....13-1-8
\$113. Force Majeure.....13-1-8
\$114. Agreement.....13-1-8
\$115. Abandonment.....13-1-8
\$116. Penalties.....13-1-8
\$117. Application.....13-1-9
\$118. Confidentiality.....13-1-9

Part 2

Transient Retail Merchants

\$201. Definitions.....13-2-1
\$202. Application for License.....13-2-1
\$203. Fee.....13-2-1
\$204. Issuance of License.....13-2-2
\$205. Prohibited Acts.....13-2-2
\$206. Supervision by Township.....13-2-2
\$207. Suspension of License.....13-2-2
\$208. Penalties.....13-2-2
\$209. Act.....13-2-2
\$210. Severability.....13-2-2

Part 3

Small Cell Wireless Facilities

\$301. Definitions.....13-3-1
\$302. Permitting Process for Small Wireless Facilities and Utility Poles
within Right-of-Way.....13-3-4

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

Part 1

Community Antenna Television System

§101. Grant of License/Purpose. East Buffalo Township, Union County, Pennsylvania, may grant a nonexclusive license to construct, maintain and operate a System within the Township for the purpose of supplementing and complementing the programs and signals of local television and radio stations to any person, firm or corporation offering to construct, maintain and operate such System, under and pursuant to the terms and provisions of this Ordinance.

§102. Definitions. For the purposes of this Ordinance, the following terms, phrases, word abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

CABLE TELEVISION SERVICE - The one way transmission to Subscribers of video programming or other programming service and Subscriber interaction, if any, which is required for the selection of such video programming or other programming service, sometimes herein referred to as Service.

CABLE TELEVISION SYSTEM (SYSTEM) - A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Television Service which includes video programming and which is provided to multiple Subscribers within the Township, but such term does not include: (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves subscribers without using any Public Rights-of-Way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility be considered a Cable System (other than for purposes of Section 621 (c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to Subscribers unless the extent of such use is solely to provide interactive on-demand services; (4) an open video system that complies with federal law; or (5) any facilities of any electric utility used solely for operating its electric utility system.

GROSS REVENUES - All monthly service revenues received from Subscribers in the License Area by Licensee from the operation of its System for the provision of Cable Television Service within the Township. Gross Revenues shall not include refunds to Subscribers, uncollectible accounts or taxes on Services furnished by Licensee which are imposed directly upon any Subscriber or user by the local or other governmental unit and collected by Licensee on behalf of such governmental unit.

LICENSE AREA - The entire territorial limits of the Township and any area annexed during the Term.

LICENSEE - Persons, firms, or corporations to whom or which a license under this part is granted by Supervisors.

PERSON - Any person, firm, partnership, association, corporation, company or organization of any kind.

SERVICE INTERRUPTION - Any loss of picture or sound on one or more Channels on the System, or the degradation of the picture and/or sound quality on such Channels to the extent that the Subscriber is unable to use the signals.

SYSTEM OUTAGE - A Service Interruption affecting more than 10 Subscribers.

STREET - The surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, sidewalk, parkway, or right of way drive, now or hereinafter existing as such, within the Township

SUBSCRIBER - An authorized recipient lawfully receiving Cable Television Service.

SUPERVISORS - The Board of Supervisors of East Buffalo Township, Union County, Pennsylvania.

TOWNSHIP - The Township of East Buffalo, Union County, Pennsylvania.

§103. Duration of License. Any license granted by Township under this Ordinance shall be for a term of five (5) years from the effective date of the grant of license. Township may grant renewal periods. Any such license may be terminated prior to its date of expiration by the Township only as provided for herein.

(a) Renewals. At the termination of any term Township may renew the license for an additional term of five (5) years provided Licensee is in full compliance with the provisions of this Ordinance, all applicable Township, Commonwealth of Pennsylvania and Federal Laws, statutes, regulations and rules and the provisions of the Agreement hereinafter provided for between Township and Licensee.

(b) Termination. Any license granted pursuant to this Ordinance may be terminated prior to its date of expiration by the Township if (i) Licensee materially violates the provisions of this Ordinance or any Township, Commonwealth of Pennsylvania or Federal Law, statute, regulation or rule or the provisions of the Agreement hereinafter provided for between Township and Licensee or becomes insolvent, unable or unwilling to pay the debts or is adjudicated bankrupt. The following procedures shall be applicable:

(i) Prior to termination of the License, Township shall give Licensee written notice of its intent to terminate identifying the nature of the breach with reasonable specificity and advising Licensee of its intent to terminate which shall be served by certified mail return receipt requested or by some other means that provides written receipt of the service of said notice.

(ii) Licensee shall, within fifteen (15) days of the receipt of said notice, either cure such failure or advise Township in writing that it contests the termination or state that such failure shall be cured and set forth the method and time for accomplishing such cure, the same to be delivered in the manner provided for delivery of the notice.

(iii) Where Licensee satisfactorily corrects any of the enumerated conditions, within the said fifteen (15) days referred to in §103(b)(ii) hereof, then in no event shall the enumerated condition be weighed against Licensee in any subsequent review of its performance.

(iv) In the event Licensee proposes to cure the failure under such terms and methods as is satisfactory to Township and does cure the failure in accordance with said terms and methods then in no event shall the enumerated conditions be weighed against Licensee in any subsequent review of its performance.

(v) In the event Licensee fails to cure the failure or fails to contest the termination within the fifteen (15) days provided for in §103(b)(ii) hereof or in accordance with the terms and methods provided for in §103(b)(iv) hereof Licensee shall be in violation of the terms of this Ordinance.

(vi) In the event Licensee contests the termination Township shall, within ten (10) days of receipt of the notice that Licensee is contesting the termination, set a hearing date to take testimony in the matter, said hearing date shall not be less than forty (40) days or more than fifty-five (55) days from the date that Licensee advised Township that it was contesting the termination. Township shall notify Licensee, in writing, of the date, place and time of the hearing in the same manner as provided in §103(b)(i) hereof. The hearing shall be open to the public and notice of the same shall be advertised and posted in accordance with the notice requirements for adoption of a non-land use ordinance by the Township. Licensee may present such testimony and other evidence, the same to be relevant, as it desires. The public may also present testimony and other evidence related to the matter. The said hearing shall be conducted by the Township Board of Supervisors. The hearing may be adjourned and reconvened as the Township shall direct.

(vii) Within fifteen (15) days of the conclusion of the hearing the Board of Supervisors shall make a decision with regard to the matter. Said decision shall be in writing, made at a public meeting and shall be delivered to Licensee in the manner set forth in §103(b)(i) hereof. In the event the Board of Supervisors determines that a violation of this Ordinance has occurred it may direct the termination of the License if the violation is not corrected within such time as the Board of Supervisors shall determine to be reasonable. In making a decision the Board of Supervisors shall consider circumstances beyond the control of Licensee and if it shall determine that the violation occurred as a result of matters beyond the control of Licensee then it shall determine that there was no violation.

§104. Area of Operation.

(a) The Licensee shall have the right to construct, operate and maintain, in, on, along, across, above, over and under the Streets, as herein defined, of the Township, poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation in the Township of a System at such locations as are reasonably suitable and convenient for the purposes of Licensee and the Township, subject to the lawful exercise of the police power heretofore or hereafter granted to the Township by the General Assembly.

(b) Licensee shall make service available to all residences located within the Township in which the density of homes is at least 30 per cable mile, provided, however, that this requirement may be waived by Township if it is satisfied that it is not technologically possible to make service available to all residences in the Township.

(c) Licensee shall, upon request, make basic service available to all commercial establishments located within 300 feet of its feeder cable at the expense of such commercial establishments.

(d) Township may exempt Licensee from providing service to areas of the Township for good cause.

§105. Work Within Streets and Rights of Way.

(a) The installation, repair, maintenance, replacement or improvement of the System within any Street or public lands shall be in compliance with all Township, Commonwealth of Pennsylvania and Federal Laws, statutes, regulations, rules and ordinances.

(b) Licensee shall not trim, cut or remove any tree, shrub or bush from any Street, unless prior written notice of this intention so to do is given to the Township, except in cases of emergency or when such requirement is waived by the Township in writing. Licensee shall have the right to trim and keep clear of its poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation in the Township of a System, the trees in and along the Streets of the Township. In the exercise of such right, Licensee shall not cut or otherwise injure said tree, shrub or bush to any greater extent than is reasonably necessary.

(c) Licensee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. All structures and all lines, equipment and connections in, over, under and upon the Streets of the Township, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

(d) Licensee shall install and maintain its wire, cables, fixtures and other equipment in accordance with the requirements of any pertinent subdivision restriction, and the applicable section of the National Electric Safety Code as revised from time to time, and in such manner which shall not interfere with any installations of the Township or any Authority or of any public utility serving the Township.

(e) Licensee shall, on the request of any Person holding a building permit issued by the Township, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and Licensee shall have the authority to require such payment in advance. Licensee shall be given not less than thirty (30) business days' advance notice to arrange for such temporary wire changes.

(f) The Township shall have the right to inspect all construction or installation work performed in, over, under and upon the Streets of the Township subject to the provisions of this Ordinance and make such inspections as it shall find necessary to ensure compliance with the terms of this Ordinance and other pertinent provisions of law.

(g) Where electric and telephone utility wiring is installed underground at the time of Cable System construction, all Cable System lines or wiring shall also be placed underground on a nondiscriminatory basis with other wire line service. In areas where electric or telephone utility wiring is aerial, the Licensee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation. Notwithstanding anything herein to the contrary Licensee shall comply with all laws, ordinances and regulations of the Township, the Commonwealth of Pennsylvania or United States of America.

(h) Licensee will, at its expense, protect, support, temporarily disconnect or relocate in the same Street, any property of Licensee when required by Township or the Commonwealth of Pennsylvania by reason of traffic conditions, public safety, street closing or abandonment, highway or street construction, change or establishment of street grade, installation of sewer drains, water pipes, power lines, signal lines, or any other types of structures or improvements; and the Township will not be liable for any disturbance of Licensee's installation resulting therefrom.

(i) All transmission and distribution structures, lines, and equipment erected by Licensee within the Township will be so located as to cause minimum interference with the proper use of Streets and to cause minimum interference with the rights and reasonable convenience of owners of property adjacent to the same.

§106. Construction.

(a) All equipment of Licensee installed, operated or utilized pursuant to the license shall be durable, maintained in proper working order and shall be in compliance with industry standards, all electric codes and all laws, statutes, regulations, rules and ordinances.

(b) Construction, installation and maintenance of the System shall be performed in an orderly and workmanlike manner, and in close coordination with public and private utilities serving the Township following accepted construction procedures and practices and working through existing committees and organizations.

(c) All cable and wire installed above ground shall be installed, where possible, parallel with electric and telephone lines, and multiple cable configurations shall be arranged in parallel and bundled with due respect for

engineering consideration.

(d) Licensee will not intentionally interfere with television reception of Persons not served by it, nor will the System interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents within the confines of the Township.

§107. Signal Quality. Licensee will use its best efforts to:

(a) Produce a picture that is undistorted and accompanied with proper sound on typical standard television sets in good repair, and in compliance with FCC technical standards.

(b) Transmit signals of adequate strength to produce good pictures and good sound at all outlets without causing cross modulation in the cables.

(c) Limit failures to a minimum by locating and correcting malfunctions~ promptly, except in the event that any malfunction is beyond the control of Licensee.

(d) If requested by Township, demonstrate by instruments and otherwise that a signal of adequate strength and quality is being delivered.

(e) Make available upon request by any Subscriber, a lockout device which prevents the viewing of unwanted channels. Licensee shall not be precluded from making a reasonable charge for such services.

§108. Operations.

(a) Licensee will render efficient Service, make repairs promptly, and interrupt Service only for good cause and for the shortest time possible. Licensee will use reasonable efforts to assure that such interruptions will occur during periods of minimum use.

(b) Licensee shall be equipped to respond to System Outages within two hours and to respond to complaints regarding Service Interruptions within twenty-four (24) hours, except in the event of circumstances beyond its control. Those conditions that are not within the control of the Licensee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Licensee shall, in writing, inform each Subscriber of the manner in which service complaints are to be made and resolved and that the office of the Township should be contacted in the event complaints are not resolved by it.

(c) Licensee shall comply with all Federal Communications Commission rules and regulations, both present and future.

(d) Licensee shall provide, upon request, one connection and basic service to each public school, fire and police station located within 300 feet of an existing service line situated in the Township upon request of the Township and at no cost to it or any other agency of the Township or the school district or the fire or police station, provided the same is technologically possible.

(e) The system, as installed, shall be capable of passing color

standard TV signals without the introduction of noticeable effects on color fidelity and intelligence.

(f) The system and all equipment shall be designated and rated for 24 hours per day continuous operation.

§109. Indemnification and Insurance.

(a) Licensee shall indemnify and hold Township harmless from any and all liability, damages, penalties, actions, causes of action or charges arising out of or in connection with the installation, operation, maintenance, replacement or improvement of Licensee's System for which the Township has granted a license. The Township shall give the Licensee timely written notice of the making of any claim or of the commencement of any action, suit or other proceeding covered by this indemnity. In the event any such claim arises, the Township or any other indemnified party shall tender the defense thereof to the Licensee and the Licensee shall have the right and duty to accept the tender and thereafter to defend, settle or compromise any claims arising hereunder and the Township shall cooperate fully therein.

(b) Licensee shall, at all times, during the existence of any License issued hereunder, furnish to the Township and maintain in full force and effect at its own cost and expense, a general comprehensive liability insurance policy, in protection of the Township, its officers, boards, commissions, agents and employees, from a recognized company authorized to do business in Pennsylvania and in a form satisfactory to the Township Solicitor protecting against the injury, death and property damage, occasioned by the construction, maintenance or operation of Licensee under such license, with minimum liability limits of one million dollars (\$1,000,000.00) for personal injury or death of any one person and two million dollars (\$2,000,000.00) for personal injury or death of two (2) or more persons in any one occurrence and five hundred thousand dollars (\$500,000.00) for damage to property suffered by any one person and one million dollars (\$1,000,000.00) as to any one occurrence.

(c) The said insurance policy or policies mentioned in the foregoing paragraph shall name the Township, its officers, boards, commissions, agents and employees, as additional insureds and shall contain a provision that a written notice of any cancellation or reduction in coverage of said policy shall be delivered to the Township, thirty (30) days in advance of the effective date thereof.

(d) No license granted under this Ordinance shall be effective unless and until each of the foregoing policies of insurance as required have been delivered to the Township.

§110. Fees. Licensee shall pay to the Township a fee of 5% of the Gross Revenues. The fee shall be paid to the Township quarterly within 15 days of the end of a quarter. Quarters shall end on the last days of March, June, September, and December. The fee paid for each quarter shall be based upon the Gross Revenues from each quarter. The fee shall be accompanied by a report verified by the Licensee's Chief Financial Officer. (as amended by Ordinance 373, adopted February 9, 2015)

§111. Records and Receipts.

(a) Copies of all petitions, applications and communications submitted by Licensee to the Federal Communications Commission, Securities and Exchange Commission or any other Federal or State Regulatory Commission having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to this Part shall be submitted to the Township upon request.

(b) The Township shall have the right to inspect such books, records, maps, plans, proof of performance tests, and other like materials of Licensee which are directly related to Licensee's license and are reasonably necessary to monitor its compliance with this Ordinance at a location in the Township during normal business hours upon not less than fourteen days prior written notice specifying those records to be examined and the reasons therefore.

(c) Licensee shall maintain maps and plats of the System and shall update these maps and plats to reflect changes in the system, copies of which shall be furnished to the Township, upon request and at no cost to the Township, annually on or before the February 1 of each year.

§112. Transfer. Licensee shall not transfer a license issued pursuant hereto to another Person, except to a company controlling, controlled by or under common control with Licensee, without prior written approval of the Township.

§113. Force Majeure. With respect to any provision of this Ordinance or any license granted pursuant hereto, the violation or noncompliance which could result in the imposition of a financial penalty, forfeiture or other sanction upon a Licensee, such violation or noncompliance shall be excused where such violation or noncompliance is the result of Acts of God, war, civil disturbance, strike or other labor unrest, or similar events, the occurrence of which was not reasonably foreseeable by Licensee and is beyond its reasonable control.

§114. Agreement. As a condition for issuance of a license Applicant shall enter into a written agreement with Township in such form as Township shall determine setting forth the terms under which the license shall be issued.

§115. Abandonment. In the event that the use of any part or all of the System is discontinued for any reason, for a continuous period of twelve (12) months, or in the event such System has been installed in any Street without complying with the requirements of the license, or the license has been terminated, cancelled or expired, the Licensee shall promptly, upon being given notice, remove from the Streets all such property and poles of the System other than any which the Supervisors may permit to be abandoned in place, and shall also remove house distribution cables and connections. In the event of any such removal, the Licensee shall promptly restore the Street from which the System has been removed to a condition satisfactory to the Supervisors or the homeowner.

§116. Penalties. Violations of this Part shall be enforced by an action brought before a District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution

without the consent of the District Attorney as required by Pennsylvania Rule of Criminal Procedure No. 83 (c). The fine for a violation of this Part shall not exceed \$1,000.00 and/or imprisonment to the extent allowed by law for the punishment of summary offenses. (Ordinance 289, December 14, 2007)

Notwithstanding anything herein to the contrary, the provisions of this Ordinance may be enforced through an action in equity brought before the Court of Common Pleas of Union County.

§117. Application. All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

§118. Confidentiality. Subject to the limits of applicable law, Township shall treat as confidential any books and records that constitute proprietary or confidential information under federal or state law, to the extent Licensee makes Township aware, whether verbally or in writing of such confidentiality. If Township believes it must release any such confidential books and records in the course of enforcing this Ordinance, or for any other reason, it shall advise Licensee in advance. If Township receives a demand from any Person for disclosure of any information designated by Licensee as confidential, Township shall, so far as consistent with applicable law, advise Licensee and provide Licensee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, Township shall, to the extent permitted by state and federal law, deny access to any of Licensee's books and records that are deemed to be confidential as set forth above to any Person.

(Ordinance 262, adopted May 10, 2004)

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

Part 3

Small Cell Wireless Facilities

§301. Definitions.

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) Local zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances that comply with this Part.

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)).

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 BUILDING OR DISTRICT - 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 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 - Any of the following:

- (1) A city of the first, second, second class A or third class.
- (2) A borough.
- (3) An incorporated town.
- (4) A township of the first or second class.
- (5) A county.
- (6) A home rule municipality.
- (7) A similar general purpose unit of government established by the General Assembly.

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

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.

TOWNSHIP - East Buffalo Township, Union County, Pennsylvania.

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 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.

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:
 - (a) Equipment associated with wireless services.
 - (b) 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:
 - (a) The structure or improvements on, under or within which the equipment is collocated.
 - (b) 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 telecommunication 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.

§302. Permitting Process for Small Wireless Facilities and Utility Poles within Right-of-Way.

A. Applicability. The provisions of this section shall apply to the Township's permitting of small wireless facilities by a wireless provider or the installation, modification and replacement of utility poles with small wireless facilities attached by a wireless provider within the right-of-way.

B. Review. An application under this section shall be treated as a permitted use in all areas of the Township, except underground districts in accordance with Chapter 27, Part 5, Section 510 A.6. of the Code of Ordinances of East Buffalo Township, and reviewed by the Township Zoning Officer for conformance with applicable codes. Such applications shall not be subject to discretionary zoning review, including conditional use or special exception requirements.

C. Permits.

1. The Township may require an applicant to obtain one or more permits from the Township Zoning Officer, including a Zoning Permit, to perform the following within the right-of-way:

- a. Collocate, maintain and modify small wireless facilities.
- b. Replace existing utility poles for collocation.
- c. Install new utility poles with attached small wireless facilities.

2. Permits of general applicability shall not apply exclusively to small wireless facilities. The Township shall receive applications for collocation or for installation, modification or replacement of utility poles with small wireless facilities attached and process and issue permits, subject to the requirements of applicable codes. The following apply:

- a. The Township may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the Township, including reserving fiber, conduit or pole space for the Township.

b. An applicant shall not be required to provide justification for capacity or radio frequency. An applicant may be required to:

1. Include documentation with an application that includes construction and engineering drawings, demonstrates compliance with the criteria specified under Chapter 27, Part 5, Section 510 A.6. of the Code of Ordinances of East Buffalo Township and includes all necessary approvals from the pole owner.

2. Self-certify that the filing and approval of the application is required by the wireless provider to provide additional capacity or coverage for wireless services. Nothing in this subsection shall be construed to permit the Township to require an applicant to submit information about an applicant's business decisions with respect to its service, customer demand for service or quality of service.

3. Include documentation showing compliance with design guidelines consistent with Chapter 27, Part 4, Section 510 A.8.

D. Completed Application. Within 10 business days of receiving an application, the Township must determine and notify the applicant in writing whether the application is incomplete. If an application is incomplete, the notice must specifically identify the missing information. The processing deadline shall restart at zero on the date the applicant provides the missing information. The processing deadline may be tolled by agreement of the applicant and the Township.

E. Deadlines. An application shall be processed on a nondiscriminatory basis and deemed approved if the Township fails to approve or deny the application within 60 days of receipt of a complete application to collocate and 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.

F. Denial.

1. The Township may deny an application under this section only if any of the following apply:

a. 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.

b. The small wireless facility fails to comply with applicable codes.

c. The small wireless facility fails to comply with the requirements specified under this Part and Chapter 27, Part 5, Section 510 of the Code of Ordinances of East Buffalo Township.

d. 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.

2. Within the time frame established under subsection E., the Township shall document the basis for a denial, including the specific provisions of applicable codes on which the denial was based, and send the documentation to the applicant within five business days of the denial.

3. The applicant may cure the deficiencies identified by the Township and resubmit the application within 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 30 days of the application being resubmitted for review or the resubmitted application shall be deemed approved 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 15 days to review the resubmitted application and may charge an additional fee for the review.

G. Consolidated Application. An applicant seeking to collocate within the jurisdiction of a single municipality shall be allowed at the applicant's discretion to file a consolidated application for collocation of multiple small wireless facilities as follows:

1. The consolidated application does not exceed 20 small wireless facilities.

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 applicant may not submit more than one consolidated or 20 single applications in a 30-day period. If the Township receives more than one consolidated application or 20 single applications within a 45-day period, the processing deadline shall be extended 15 days in addition to the processing deadline specified under subsection D. to allow the municipality to complete its initial review under subsection D.

4. The following apply:

a. For the purpose of counting the number of small wireless facilities each applicant has before the Township at a given time, small wireless facilities and poles that a wireless provider applicant has requested a third party to deploy and that are included in a pending application by the third party shall be counted as pending requests by the wireless provider applicant.

b. An application tolled under G.3. above shall count towards the total number of applications included in a consolidated application unless the application is withdrawn by the applicant. As the processing of applications is completed,

the municipality shall begin processing previously tolled application in the order in which the tolled applications were submitted, unless the applicant specifies a different order.

H. Time Limit for Work. The proposed collocation, the modification or replacement of a utility pole or the installation of a new utility pole with small wireless facilities attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the Township and the applicant agree in writing to extend the period.

I. Utility Poles. When applying to install a new utility pole under this Part, the Township may require the wireless provider to demonstrate that it cannot meet the service reliability and functional objectives of the application by collocating on an existing utility pole or municipal pole instead of installing a new utility pole. The Township may require the wireless provider to self-certify that the wireless provider has made this determination in good faith and to provide a documented summary of the basis for the determination. The wireless provider's determination shall be based on whether the wireless provider can meet the service objectives of the application by collocating on an existing utility pole or municipal pole on which:

1. The wireless provider has the right to collocation.
2. The collocation is technically feasible and would not impose substantial additional cost.
3. The collocation would not obstruct or hinder travel or have a negative impact on public safety.

J. Approval. 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 not less than five years, which shall be renewed for two additional five-year periods if the applicant is in compliance with the criteria set forth in this Part or applicable codes consistent with this Part and the applicant has obtained all necessary consent from the utility pole owner.

K. Removal of Equipment.

1. Within 60 days of suspension or revocation of a permit due to noncompliance with this Part or applicable codes consistent with this Part, 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 noncompliance.
2. 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 facilities and associated equipment are the only facilities on the utility pole.

L. Moratorium Prohibited. The Township may not institute, either expressly or de facto, a moratorium on:

1. filing, receiving or processing applications; or
2. issuing permits for:
 - a. collocation;
 - b. modification or replacement of utility poles to support small wireless facilities; or
 - c. installation of new utility poles to support small wireless facilities.

M. When Applications Not Required.

1. The Township shall not require an application for:
 - a. Routine maintenance or repair work.
 - b. The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller and still qualify as a small wireless facility.
 - c. The installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles by or for a communications service provider authorized to occupy the right-of-way, in compliance with the National Electrical Safety Code.

2. The Township may require a permit to perform work within the right-of-way for the activities under section M.1.a. above or subsection c. of this section, if applicable for work that involves excavation, closure of a sidewalk or closure of a vehicular lane. Permits shall be subject to the requirements provided in this Part or applicable codes consistent with this Part.

N. Application Fees. Subject to the fee adjustment requirements under Chapter 27, Part 4, Section 510 D.3., the Township shall have the right to charge an application fee for the review of a permit application and plans submitted for the work to be done within the right-of-way. The Township may charge a one-time application fee of up to the following:

1. Five Hundred and 00/100 (\$500.00) Dollars for an application seeking approval for no more than five collocated small wireless facilities and up to One Hundred and 00/100 (\$100.00) Dollars for each collocated small wireless facility beyond five.

2. One Thousand and 00/100 (\$1,000.00) Dollars for an application seeking approval of a small wireless facility that requires the installation of a new or replacement utility pole.

(Ordinance 405, adopted February 14, 2022)