

BOROUGH OF LEESPORT, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 462

AN ORDINANCE OF THE BOROUGH OF LEESPORT, BERKS COUNTY, PENNSYLVANIA, AMENDING THE LEESPORT BOROUGH ZONING ORDINANCE OF 1972, AS AMENDED, TO AMEND SECTION 201.4 TO DELETE THE DEFINITION OF THE TERMS “COMMUNICATIONS ANTENNA”, “COMMUNICATIONS EQUIPMENT BUILDING” AND “COMMUNICATIONS TOWER”; TO ADD NEW DEFINITIONS OF TERMS RELATING TO WIRELESS COMMUNICATIONS FACILITIES; TO ESTABLISH STANDARDS FOR THE SITING, DESIGN, PERMITTING, CONSTRUCTION, OPERATION, INSPECTION, MAINTENANCE, REPAIR, MODIFICATION, REMOVAL AND REPLACEMENT OF WIRELESS COMMUNICATIONS FACILITIES; AND TO EXCLUDE WIRELESS COMMUNICATIONS FACILITIES FROM THE EXEMPTION CONTAINED IN SECTION 904. ENTITLED “PUBLIC UTILITIES CORPORATION EXEMPTED”.

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Leesport, Berks County, Pennsylvania, as follows:

SECTION 1. The Leesport Zoning Ordinance of 1972, as amended, is hereby further amended as follows:

A. Section 201.4 is amended to remove the following terms in their entirety:

Communications Antenna
Communications Equipment Building
Communications Tower

B. Section 511. entitled “Standards for Communications Towers a Conditional Uses” and the regulations provided for therein are deleted in their entirety and shall now read in its entirety as follows:

Section 511. Wireless Communications Facilities.

Section 511.1 Purpose.

The purpose of this ordinance is to establish reliable standards for the siting, design, permitting, construction, operation, inspection, maintenance, repair, modification, removal and replacement of wireless communications facilities, in recognition of the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); the federal Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) Pub. L. No. 112-96, 126 Stat. 156 (2012), and FCC regulations promulgated thereunder by the Federal Communications

Commission (FCC), including the FCC's Report and Order of October 21, 2014, FCC 14-153 (rel. Oct. 21, 2014); and the Pennsylvania Wireless Broadband Collocation Act (Act 191 of 2012), 53 P.S. § 11702.1 *et seq.*, in the Borough of Leesport. Moreover, the Borough desires to plan and accommodate for the managed deployment of infrastructure that is necessary to accommodate the wireless communications needs of the Borough's residents, businesses and emergency service providers. While the Borough recognizes the benefit of wireless communications facilities in providing high quality communications service and enhancement to its residents, businesses and emergency service providers, the Borough also recognizes that it has an obligation to protect public safety through the standards set forth in the following provisions.

Section 511.2 Definitions.

The definitions found herein apply only to Wireless Communications Facilities and the regulations found in this Article.

Accessory Equipment: Any equipment serving or being used in conjunction with a wireless telecommunications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar equipment.

Antenna: Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services. An antenna shall not include private residence-mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

Base Station: A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

(i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services (i.e., wifi) and fixed wireless services (i.e. point to point microwave transmissions) such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the Borough under this subpart, supports or houses equipment described in sub-paragraphs (i) and (ii) of this section that has been reviewed and approved under the

applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) The term does not include any structure that, at the time the relevant application is filed with the Borough under this section, does not support or house equipment described in subparagraphs (i) or (ii) of this section.

Collocation: The mounting of one or more WCFs, including Antenna, on an existing Tower-Based WCF or utility or light pole.

Distributed Antenna System (DAS): A small network of antennas that are connected to a common source that provides coverage in a building or a small geographic area.

Eligible Facilities Request: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

Eligible Support Structure: Any tower or base station, provided that it is existing at the time the relevant application is filed.

Equipment Compound: An area surrounding or adjacent to a wireless support structure within which base stations, power supplies or accessory equipment are located.

Ft. Worth Attachment: A non-freestanding pole which is attached to an electrical transmission tower which is used to support antennas and accessory equipment and which is anchored to the ground and obtains lateral bracing by direct attachment to the electrical transmission tower.

Minimum Functional Height: Minimum height necessary for a WCF to function satisfactorily.

Modification: The improvement, upgrade or expansion of existing wireless telecommunications facilities or base stations on an existing wireless support structure or the improvement, upgrade or expansion of the wireless telecommunication facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.

Monopole: A tower which consists of a single pole structure without any guy wires, designed and erected on the ground or on top of a structure, to support communications antennas and connect appurtenances.

Non-Tower Wireless Communications Facility (Non-Tower WCF): All Non-Tower WCFs, including, but not limited to, Antenna and related equipment. Non-Tower WCFs shall not include support structures for Antenna and related equipment.

Replacement: The replacement of existing wireless telecommunications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless telecommunications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.

Right-of-Way (ROW): The surface of and space above and below any real property in the municipality in which the federal government, Commonwealth, municipality or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the federal government, Commonwealth, municipality or municipal authority, and any non-exclusive public or utility easements established, dedicated, platted, improved or devoted for utility purposes. Private rights-of-way and other government-owned lands not listed above shall not be considered a right-of-way. The phrase “in the right(s)-of-way” means in, on, over, along, above and/or under the Right(s)-of-Way.

Site: For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Stealth Technology: State-of-the-art design techniques used to blend objects into the surrounding environment and to minimize the visual impact as much as possible. These design techniques are applied to wireless communications towers, antennas and other facilities which blend the proposed WCF into the existing structure or visual backdrop in such a manner as to render it less visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, light poles, utility poles or flag poles.

Substantial Change OR Substantially Change: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(i) for towers other than towers in the public rights-of-way, it increases the original height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other existing

towers or base stations, it increases the original height of the structure by more than 10% or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

(ii) for towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other existing towers or base stations, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) for any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) it entails any excavation or deployment outside the current site.

Tower: Any structure that exceeds ten feet (10') in height and is built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services (i.e. wifi) and fixed wireless services (i.e. point to point microwave transmission) such as microwave backhaul, and the associated site. A building, water tower, electrical transmission tower, utility pole, light pole, traffic signal pole, flag pole or other similar structure designed and constructed for a sole or primary purpose other than supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, as well as a Ft. Worth Attachment shall not be considered a tower.

Tower-Based Wireless Communications Facilities (Tower-Based WCF): Any structure that is used for the purpose of supporting one or more Antenna, including, but not limited to, self-supporting lattice towers, monopoles, utility poles and light poles. DAS hub facilities are considered to be Tower-Based WCFs.

Transmission Equipment: Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup

power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as a microwave backhaul.

WCF on Existing Structure: Wireless communications facilities located on existing structures such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.

Wireless: Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, personal communications service (PCS), microwave, satellite, or radio signals.

Wireless Communications Facility (WCF): The set of equipment and network components including antennas, transmitters, receivers, base stations, cabling and accessory equipment, used to provide wireless data and telecommunication services. The term shall not include the wireless support structure.

Wireless Support Structure: A freestanding structure, such as a guyed or self-supporting monopole or tower, electrical transmission tower, water tower or other structure not classified as a wireless support structure, including but not limited to buildings, light poles, utility poles, traffic signals and other similar structures that could support the placement or installation of wireless telecommunications facilities if approved by the municipality.

Section 511.3 Permitted and Prohibited Zoning Districts for Wireless Communications Facilities (WCF).

Table 511.3.a

Permitted Zoning Districts

	WCF TYPE	PERMITTED ZONING DISTRICTS	PERMITTED BY RIGHT OR CU
A	Tower-Based WCF Located In the ROW	Non-Residential Zoning Districts	By Right
B	Tower- Based WCF where the Tower is 40' or less in height, Located Out of the ROW	Non-Residential lots or properties in Residential Zoning Districts (subject to Table 511.3.b. below)	By Right
		Non-Residential Zoning Districts Municipal owned property in all zoning districts	
C	Tower-Based WCF where the Tower is more than 40' in height, Located Out of the ROW	Non-Residential Districts	By Right
		Church, School, Public or Semi-Public or other institutional lots or properties in Residential Zoning Districts	Conditional Use
D	WCF on Existing Structures	All zoning districts	By Right
E	Eligible Facilities Request		

Table 511.3.b.

Prohibited Zoning

	WCF TYPE	PROHIBITED ZONING DISTRICTS
A	Tower-Based WCF Located Out of the ROW	Residential lots or properties in Residential Zoning Districts

Section 511.4. Bulk and Area Requirements.

Table 511.4

Tower-Based WCFs

		WCF out of ROW	WCF in ROW
Height		Tower-Based WCFs shall be designed to Minimum Functional Height. Applicants must submit documentation justifying the total height.	Tower-Based WCFs shall be designed to Minimum Functional Height, not to exceed 40 feet in Residential Zoning Districts and 60 feet in Non-Residential Zoning Districts. Applicants must submit documentation justifying the total height.
Lot size	Only use on lot or property:	Subject to underlying zoning district.	Not Applicable.
	Combined with another use on lot or property:	Area needed to accommodate the WCF and guy wires, Accessory Equipment, and if required security fence and landscaping and screening.	
Setbacks	Towers:	Setback from property lines, not lease lines, at least (100%-110%) of the combined height of the Wireless Support Structure and Antennas, or the applicable minimum building setback in the underlying zoning district, whichever is greater.	Not Applicable.
	Equipment buildings/cabinets:	Subject to applicable minimum accessory use or structure setback in the underlying zoning district.	

Section 511.5 General Design, Construction and Operations Requirements for all Wireless Communications Facilities.

- a. All WCFs shall be sited, designed, constructed, operated, inspected maintained, repaired, Modified, removed and Replaced in strict compliance with all current applicable federal and state technical and safety codes.
- b. Subdivision plan approval shall not be required when a WCF is located on a leased parcel that is less than the entire lot or property.
- c. All WCFs shall be operated in accordance with all applicable FCC rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.
- d. Collocation. All Tower-Based WCFs where the Tower is more than 40 feet in height, located outside of the Right-of-Way, shall be designed to accommodate both the applicant's Antennas and comparable Antennas for future users. As a condition of approval for all Tower-Based WCFs where the Tower is more than 40' in height, the applicant shall agree to allow other service providers to collocate Antennas on the Tower where technically and economically feasible.
- e. Signage. All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and Federal Communications Commission (FCC) registration number (if applicable). Such signage shall not include commercial advertising and is subject to approval by the municipality.
- f. Lighting. Towers shall not be artificially lighted beyond what is required by law.
- g. Noise. All WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards established by the municipality. The use of a backup generator in emergency situations and periodic maintenance and testing by the wireless communications provider's technicians shall be permitted, where such noise standards may be exceeded on a temporary basis.
- h. Vehicular Access.
 1. An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access to all Tower-Based WCFs located outside of the Right-of-Way.
 2. Maximum use of existing roads, whether public or private, shall be made to the extent practicable.

3. Where possible, access driveway construction shall at all times minimize ground disturbance and the cutting of vegetation.

4. Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.

5. An applicant shall present documentation to the Borough that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.

6. Any required access easement shall be a minimum of 15 feet in width and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least 10 feet throughout its entire length.

7. Vehicular access to all WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.

i. Fencing. A security fence, with a maximum height of eight (8') feet, shall be required to surround any Tower-Based WCF located outside the Right-of-Way, where the Tower is more than 40 feet in height, including guy wires, associated equipment, and buildings. The requirement for a security fence may be waived by the Borough when the fence would not be appropriate or feasible.

j. Safety in Rights-of-Way.

1. Schedule of operations. The Borough shall determine the time, place and manner of siting, design, construction, maintenance, repair, Modification, removal and/or Replacement of all WCFs located in the Right-of-Way, based on public safety, traffic management, physical burden on the Right-of-Way and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.

2. Alteration of a WCF. Within 60 days following written notice from the Borough, or such longer period as the municipality determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF located in the Right-of-Way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under any one of the following circumstances:

- i. The construction, repair, maintenance or installation of any municipal or other public improvement located in the Right-of-Way.
- ii. The operations of the Borough or other governmental entity in the Right-of-Way.
- iii. Vacation of a street or road or the release of a utility easement.
- iv. An emergency as determined by the Borough.
- v. No permit is required for such removal, relocation, change or alteration ordered by the Borough.

3. Visual obstruction. All WCFs and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the Right-of-Way as determined by the Borough. In no case shall ground-mounted equipment, walls, screening or landscaping be located within (18) inches of the face of the curb, or in an area in which there are no curbs, within (3) feet of the edge of cartway.

k. Maintenance. An applicant for a WCF shall describe anticipated maintenance needs, including frequency of service, personnel needs and equipment needs, and the traffic, safety and noise impacts of such maintenance.

l. Soil report. An applicant for a Tower-Based WCF where the new Tower is more than 40 feet in height, shall submit a soil report complying with the standards of geotechnical investigations, ANSI/EIA-222-G, as amended, shall be submitted to the Borough Engineer prior to construction to document and verify the design specifications of the foundation for the Wireless Support Structure and anchors for the guy wires, if used.

m. Aviation safety. All WCFs shall comply with federal and state laws and regulations concerning aviation safety.

n. Inspections for all WCFs where the new Tower is more than 40 feet in height.

A copy of any required inspection report shall be provided to the Borough following the inspection. Any repairs advised by report shall be completed by the WCF owner within 60 calendar days after the report is filed with the Borough.

o. Equipment Storage. The storage of unused equipment or supplies is prohibited on any WCF site.

p. Historic Buildings or Districts. No WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts list maintained by the Borough as being of historic significance.

q. Wind. Any Tower-Based WCF structures shall be designed to withstand the effects of wind according to the standard design by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).

r. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering of Technology Bulletin 65 and titled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields”, as amended.

s. Appearance. Towers shall be galvanized and/or painted with rust-preventive paint of an appropriate color to harmonize with the surroundings.

t. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

Section 511.6 Non-Tower Wireless Communications Facilities in the Rights-of-Way. The following additional regulations shall apply to all Non-Tower Wireless Communications Facilities located in the rights-of-way:

a. Collocation. Non-Tower WCFs in the ROW shall be collocated on existing poles, such as existing utility poles or light poles.

b. Design Requirements.

1. WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

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

c. Compensation for ROW Use. In addition to permit fees as described above, every Non-Tower WCF in the ROW is subject to the Borough’s right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such

compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each Non-Tower WCF shall pay an annual fee to the Borough to compensate the Borough for its costs incurred in connection with the activities described above. The annual ROW management fee for Non-Tower WCFs shall be determined by the Borough and authorized by resolution of Borough Council and shall be based on the Borough's actual ROW management costs as applied to such Non-Tower WCF.

d. Equipment Location. Non-Tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:

1. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.

2. Ground-mounted equipment shall be located underground. In the event an applicant can demonstrate, to the satisfaction of the Borough Engineer, that ground-mounted equipment cannot be undergrounded, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough. Ground mounted cabinets shall not be installed above ground directly in front of a residential structure.

3. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.

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

5. Any underground vaults related to Non-Tower WCFs shall be reviewed and approved by the Borough.

6. Not be located within an easement other than a utility easement.

Section 511.7 Aesthetics, Landscaping, and Screening.

a. Stealth Technology. All WCFs shall employ the most current Stealth Technology available, where appropriate, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.

b. Landscaping and Screening. An applicant for Tower-Based WCF where the new Tower is more than 40 feet in height, located outside of the Right-of-Way, shall submit a landscaping and screening design including the following:

1. The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF support structure shall be preserved to the extent practicable.

2. Ground mounted equipment may be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by Borough .

Section 511.8 Replacement, Collocation, or Modification.

a. Application. Notwithstanding the requirements for all Tower-Based WCFs and WCFs on Existing Structures, as set forth herein, an application for Replacement, Collocation or Modification of a previously approved Wireless Support Structure or WCF shall be reviewed for conformance with the Borough building permit requirements, including requirements applicable to the added structural loading of the proposed Antennas and Accessory Equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, provided that there is no Substantial Change.

b. Replacement. Replacement of WCFs on existing Wireless Support Structures or within existing Equipment Compounds may be performed by the applicant without obtaining building or zoning permits from the Borough.

c. Change. Any Substantial Change to an existing Tower-Based WCF shall require approval of the Borough in accordance with the terms of this Section.

d. Mounting. An applicant proposing a WCF on Existing Structure to be mounted on a building or any other structure shall submit detailed construction and elevation drawings indicating how the WCF on Existing Structure will be mounted on the existing structure for review by the Borough building code official for compliance with the building code.

Section 511.9 Permit Requirements.

a. Collocation Analysis. An application for a new Tower-Based WCF where the new Tower is more than 40 feet in height and located outside of the Right-of-Way, shall not be approved unless the applicant demonstrates that the Wireless communications equipment planned for the proposed Tower-Based WCF cannot be collocated on an existing structure or building within a 1/3 mile radius of the proposed Tower-Based WCF location to achieve the coverage or capacity objectives of the applicant.

b. Gap in Coverage or Lack of Adequate Capacity. An applicant for a Tower-Based WCF where the new Tower that is more than 40 feet in height, located outside of the Right-of-Way, must demonstrate that a significant gap in Wireless coverage exists or lack of adequate capacity is likely to exist within one (1) year of the filing of its application with respect to the applicant in the area.

c. Authorization. An applicant for a WCF shall submit a copy of the lease or other form of written authorization with the property owner confirming that the applicant has standing to file the application and maintain the proposed WCF on the subject lot or property.

d. Licensing and applicable regulations. If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with its application copies of all FCC permits and licenses.

e. Emissions. The applicant shall demonstrate that the proposed WCF will comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic emissions.

f. Insurance. The applicant shall provide a certificate of insurance issued to the owner/operators of the WCF, evidencing that there is or will be adequate current liability insurance in effect.

g. Review timeframes.

**Table 511.9
WCF Review Timeframes**

		Municipality shall notify the applicant in writing of any information that may be required to complete application.	Municipality shall approve or deny the application unless a shorter time period is applicable under the PA MPC.
A	New Tower-Based WCFs	Within 30 calendar days of the date the application was filed with the Municipality.	Within 150 days* of submission of a complete application for a WCF.
B	WCF on Existing Structures	Within 30 calendar days of the date the application was filed with the Municipality.	Within 90 days* of submission of a complete application for a WCF.
C	Eligible Facilities Requests** (as defined)	Within 30 calendar days of the date the application was filed with the Municipality.	Within 60 days* of submission of a complete application for a WCF.
<p>*The time period may be tolled by mutual agreement or in cases where the Municipality informs the applicant in a timely manner that the application is incomplete. If an application is considered incomplete, the time period begins running again as soon as the applicant makes a supplemental submission, but may be tolled again if the Municipality provides written notice to the applicant within 10 days that the application remains incomplete and specifically delineates which of the deficiencies specified in the original notice of incompleteness have not been addressed.</p>			

**The Municipality shall only require the applicant to provide documentation that is reasonably related to determining whether the request is for an Eligible Facility.

h. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the actual costs in reviewing and processing the application for approval of a WCF. The amount of this fee may not be in excess of the actual reasonable cost to review and process the application.

i. Notice. Upon receipt of an application for a Tower-Based WCF, the Borough shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility.

Section 511.10 Discontinuation, Abandonment and Removal.

a. Discontinuation. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner/operator shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

1. All unused or abandoned WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the Site unless a time extension is approved by the Borough

2. If the WCF and/or accessory facility is not removed within three (3) months of the cessation of operations at a Site, or within any longer period approved by the municipality, the WCF and accessory facilities and equipment may be removed by the municipality and the cost of removal assessed against the owner of the WCF.

3. Any unused portions of WCFs, including Antennas, shall be removed within three (3) months of the time of cessation of operations.

SECTION 2. The exemption provided for in Section 904. of the Ordinance, entitled “Public Utilities Corporation Exempted” shall not apply to Wireless Communications Facilities regulated under the 1996 Telecommunications Act.

SECTION 3. Repeal of Ordinances.

Any ordinance or part of ordinances conflicting with the provisions of this Ordinance is hereby repealed insofar as they are inconsistent with this Ordinance’s provisions.

SECTION 4. Severability.

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect

or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Borough Council of the Borough of Leesport, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 5. Effective Date.


The effective date of the within amendments shall be immediately upon its enactment and approval by the Mayor.

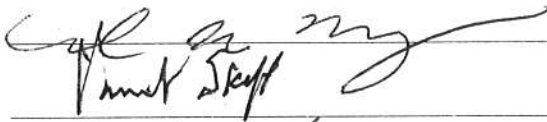


DULY ORDAINED and ENACTED as an Ordinance by the Borough Council of the Borough of Leesport at a meeting held on the 17th day of May, 2017.

ATTEST:

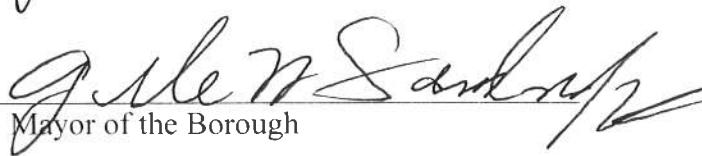
BOROUGH OF LEESPORT
BOROUGH COUNCIL


Secretary of the Borough

By: 
President of Borough Council

APPROVED this 17th day of May, 2017.


Mayor of the Borough