

**CLARKS GREEN BOROUGH
COUNCIL MINUTES
MARCH 15, 2023**

CALL TO ORDER: President Rinaldi called the meeting of the Clarks Green Council to order at 7:05 P.M. with the Pledge of Allegiance.

ROLL CALL: Secretary Culbertson conducted roll call. The following were present: Mr. Nealon, Ms. Igoe, Mr. Curran and Mr. Rinaldi. Mr. Williams joined the meeting via phone approximately 7:07 P.M. with Mr. Toms arriving soon thereafter.

ABSENT: Mr. Egan, Mayor Barrasse and Solicitor Weinschenk.

VISITORS: CSPD Officer Hall, Ben Freda, Abington Journal and Rick Williams.

APPROVAL OF MINUTES: President Rinaldi entertained the motion to accept the minutes of the February 15, 2023 Council meeting. Ms. Igoe motioned, seconded by Mr. Nealon. Mr. Williams, Ms. Igoe, Mr. Nealon, Mr. Curran and Mr. Rinaldi voted in favor.

PUBLIC COMMENT: No public comment.

POLICE REPORT: CSPD Officer Chief Hall briefly reviewed the police report. Officer Hall told Council the Aggressive Driver Enforcement will begin March 20th to April 23rd.

MAYOR'S REPORT: Mr. Williams told Council Mayor Barrasse had signed a Tree City Proclamation.

TREASURER'S REPORT AND BILL APPROVAL: Mr. Rinaldi reviewed the distributed Budget vs. Actual comparing balances to last month and last year. The Treasurer's report was presented by Mr. Rinaldi and filed for audit. Current fund balances are as follows:

General Fund Checking	\$	640,331.32
Capital Fund Money Market		126,895.65
Sewer Fund Checking		487,762.81
Sewer – FNCB CD #200469681		76,488.61
Sewer – Wayne Bank CD #80049035		76,974.99
Sewer – Wayne Bank CD #80021603		53,339.83
Sewer – Wayne Bank CD #80044088		50,188.16
State Funds Checking		<u>168,569.55</u>
Total Checking/Savings	\$	1,680,550.92

Mr. Rinaldi entertained a motion to accept the Treasurer's report and ratify the payment of the bills. Mr. Toms motioned, seconded by Ms. Igoe. Mr. Toms, Mr. Curran, Mr. Nealon, Mr. Williams, Ms. Igoe and Mr. Rinaldi voted in favor.

MOTIONS: Mr. Rinaldi told Council Wayne Bank's CD 80044088 will be maturing March 29th and FNCB is offering a CD at 4.50 % for 15 months only through March 16th to March 18th. Mr. Rinaldi explained since the CD is maturing at the end of the month the Borough would invest \$50,000 from the Sewer Fund Account to purchase a new CD and then reimburse the sewer fund with the money from the matured CD. Mr. Williams motioned to withdraw \$50,000 from the Sewer Fund for a FNCB CD purchase at 4.50% for term (fifteen) 15 months and not renewing the Wayne CD 80044088, seconded by

Ms. Igoe, Mr. Nealon, Mr. Curran, Mr. Williams, Mr. Toms and Mr. Rinaldi voted in favor. Mr. Rinaldi entertained a motion to approve Resolution No. 3 of 2023, amending the Covid 19 PA Small Water and Sewer grant that was adopted by Resolution No. 7 of 2022 along with the authorized certification by the Borough's secretary. Mr. Curran motioned, seconded by Ms. Igoe. Ms. Igoe, Mr. Toms, Mr. Nealon, Mr. Williams, Mr. Curran and Mr. Rinaldi voted in favor.

RESOLUTION No. 3 of 2023

**Borough of Clarks Green
Lackawanna County, Pennsylvania**

**A RESOLUTION APPROVING AN AMENDMENT OF THE
COMMONWEALTH FINANCING AUTHORITY GRANT REQUEST**

WHEREAS, the Borough of Clarks Green (the "Borough") adopted Resolution No. 7 of 2022 approving the submission of a grant Covid 19 ARPA Pennsylvania Small Water and Sewer Program grant request for a stormwater drainage project within the Borough; and

WHEREAS, the desires to amend the grant request is certain respects all as set forth herein; and

WHEREAS, the Borough desires undertake a stormwater drainage project estimated to cost \$380,250.00 and to submit a grant request for funds to repair and replace stormwater drainage within the rights-of-way of Borough streets identified as Evans Street, Rabbit Run and Spring Street in the Borough.

NOW THEREFORE, BE IT RESOLVED, that the Borough of Clarks Green, Lackawanna County, Pennsylvania hereby requests a Covid 19 ARPA Pennsylvania Small Water and Sewer Program grant in the amount of \$304,200.00 from the Commonwealth Financing Authority to be used for repair and replacement of Borough owned stormwater drainage facilities in the rights-of-way of Evans Street, Rabbit Run and Spring Street in the Borough with a Borough match of \$76,050.00.

BE IT FURTHER RESOLVED, that the Borough does hereby designate David Rinaldi, President of the Clarks Green Borough Council, and Joanne Culbertson, Borough Manager, as the officials authorized to execute all documents and agreements between the Borough and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

THIS RESOLUTION is adopted by the Clarks Green Borough Council this 15th day of March, 2023.

ATTEST:

/s/Joanne Culbertson
Joanne Culbertson, Secretary

BOROUGH OF CLARKS GREEN

/s/David Rinaldi
David Rinaldi, President
Clarks Green Borough Council

Mr. Rinaldi stated Greenbrier Drive had to be removed from the grant since award date was possibly in September 2023 which would have held up project.

Authorized Official Resolution

I, Joanne Culbertson, duly qualified Secretary of the Borough of Clarks Green, Lackawanna County, Pennsylvania, hereby certifies that the Resolution attached hereto is a true, complete and correct copy of the Resolution duly adopted by a majority vote of the Clarks Green Borough Council at a duly convened Meeting of the Clarks Green Borough Council held on March 15, 2023 and said Resolution has been recorded in the Minutes of the Borough of Clarks Green and remains in full force and effect as of this date.

IN WITNESS THEREOF, I affix my hand and attach the seal of the Borough of Clarks Green.

Dated: March 15, 2023

/s/Joanne Culbertson
Joanne Culbertson, Secretary
Borough of Clarks Green
Lackawanna County, PA

Mr. Rinaldi reported to Council this evening the Public Hearing was held at 6: 30 P.M. for Ordinance No. 1 of 2023 and no testimonies were given about the proposed Ordinance noting no one from the public was present. Mr. Rinaldi introduced Ordinance No. 1 of 2023:

**ORDINANCE NO. 1 OF 2023
BOROUGH OF CLARKS GREEN
LACKAWANNA COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING CHAPTER 27 OF THE CODE OF ORDINANCES OF THE
BOROUGH OF CLARKS GREEN (ZONING) TO UPDATE REGULATION OF WIRELESS
COMMUNICATION FACILITIES WITHIN THE BOROUGH**

WHEREAS, the Borough of Clarks Green desires manage the development of Wireless Communication Facilities within the Borough;

WHEREAS, the Borough Council of the Borough of Clarks Green desires to amend certain provisions of the Borough's Zoning Ordinance set for the in Chapter 27 of the Code of Ordinances of the Borough of Clarks Green (the "Code") to manage such development.

NOW THEREFORE, be it ordained by the Borough Council of the Borough of Clarks Green, Lackawanna County, Pennsylvania as follows:

**1. A new Section 507 shall be added to Part 5 of Chapter 27 of the Code. The new Section 507 shall be as follows:
"27-507 Wireless Communication Devices.**

1. Definitions.

Accessory Equipment — Any equipment serving or being used in conjunction with a Wireless Communications Facility or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna — An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

Collocation — The mounting of one or more WCFs, including Antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

Equipment Compound — An area surrounding or adjacent to a Wireless Support Structure within which base stations, power supplies, or Accessory Equipment are located.

FCC — Federal Communications Commission. *Modification* or *Modify* — The improvement, upgrade or expansion of existing Wireless Communications Facilities or base stations on an existing Wireless Support Structure or the improvement, upgrade, or expansion of the Wireless Communications 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.

Non-Tower Wireless Communications Facility (Non-Tower WCF) — Wireless Communications Facilities that are Collocated on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles, existing Tower-Based WCFs and other similar structures that do not require the installation of a new tower.

Replacement of a Wireless Communications Facility (Replacement of a WCF) — The replacement of existing Wireless Communications 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 Communications Facilities initially installed and that does not Substantially Change the physical dimensions of the existing Wireless Support Structure.

Small Wireless Communications Facility — The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:

(A) Each antenna associated with the deployment is no more than three (3) cubic feet in volume; and the volume of all other equipment associated with the communication facility, whether ground mounted or pole mounted is cumulatively no more than 28 cubic feet.

(B) Any equipment used solely for the concealment of the small communication facility shall not be included in the volume.

Stealth Technology — Camouflaging methods applied to wireless communications facilities and accessory equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally 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, and light poles.

Substantial Change or Substantially Change – A modification substantially changes the physical dimensions of a wireless support structure if it meets the criteria established by 47 CFR §1.6100.

Technically Feasible – By virtue of engineering or spectrum usage, the proposed placement for a Wireless Communications Facility or its design or site location can be implemented without a material reduction in the functionality of the Wireless Communications Facility.

Tower-Based Wireless Communications Facility (Tower-Based WCF) — Any structure that is used for the primary purpose of supporting one or more Wireless Communications Facilities, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying Antenna and Accessory Equipment.

WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)

Wireless Communications Facility (WCF) — An Antenna facility or a Wireless Support Structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services

Wireless Support Structure — A pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

2. **Purposes.** The purpose of this Section is to:

A. Provide for the managed development of Wireless Communications Facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Borough residents and wireless carriers in accordance with federal and state laws and regulations;

B. Accommodate the need for Wireless Communications Facilities while regulating their location and number so as to ensure the provision of necessary services;

C. Establish procedures for the design, siting, construction, installation, maintenance and removal of Non-Tower Wireless Communications Facilities, Small Wireless Communications Facilities, and Tower-Based Wireless Communications Facilities in the Borough, including Wireless Communication Facilities both inside and outside the public rights-of-way;

D. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, small cells, and other Wireless Communications Facilities;

E. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services Collocate their Wireless Communications Facilities on existing infrastructure; and

F. Promote the health, safety and welfare of the Borough's residents.

3. General Requirements for All Wireless Communications Facilities.

A. Standard of care.

(i) All WCFs shall meet all applicable standards and provisions of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate wireless communications facilities, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Borough.

B. Subdivision. Subdivision plan approval shall be required when a WCF is located on a leased parcel that is less than the entire lot or property.

C. Engineer Signature. All plans and drawings included in an application for a WCF shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania.

D. Collocation Efforts Required. An application for a new Tower-Based WCF or Small WCF requiring the installation of a new Wireless Support Structure shall demonstrate that the proposed WCF cannot be accommodated on an existing Wireless Tower-Based WCF or Small WCF requiring the installation of a new Wireless Support Structure. The Borough may deny an application to construct a Structure if the WCF Applicant has not made a good faith effort to mount the WCF on an existing Wireless Support Structure. The WCF Applicant shall demonstrate that it contacted the owners of all potentially feasible structures, buildings, and towers within a one-quarter (1/4) mile radius of the site proposed, sought permission to install a WCF on those existing Wireless Support Structures and was denied for one of the following reasons:

(i) The proposed WCF would exceed the structural capacity of the existing Wireless Support Structure, and its reinforcement cannot be accomplished at a reasonable cost.

(ii) The WCF would cause radio frequency interference with other existing equipment for that existing Wireless Support Structure and the interference cannot be prevented at a reasonable cost.

(iii) Such existing Wireless Support Structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.

(iv) A commercially reasonable agreement could not be reached with the owner of the existing Wireless Support Structure.

4. Eligible Facilities Requests.

(A) Building Permit Required.

(i) WCF Applicants proposing a Modification or Replacement of an existing WCF shall be required only to obtain a building permit from the Borough Zoning Officer. In order to be considered for such permit, the WCF Applicant must submit a permit application to the Borough Zoning Officer in accordance with applicable permit policies and procedures.

(ii) Such permit application shall clearly state that the proposed Modification or Replacement constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit application shall detail all dimensional changes being made to the WCF and Wireless Support Structure.

(iii) The Borough may request any information necessary to confirm that the proposed Modification or Replacement does not constitute a Substantial Change.

(B) Timing of Approval.

(i) Within thirty (30) calendar days of receipt of a complete application for the Modification of an existing WCF, the Borough Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.

(ii) Within sixty (60) calendar days of receipt of a complete application for the Modification of an existing WCF, the Borough Zoning Officer shall issue the required permits authorizing construction of the WCF.

5. Substantial Change.

Any Substantial Change to a WCF shall require notice to be provided to the Borough Zoning Officer, and possible supplemental permit approval as determined by the Borough Zoning Officer in accordance with this Ordinance.

6. Signs.

(A) All WCFs shall post a sign in a readily visible location identifying the owner of the WCF and the name and phone number of a party to contact in the event of an Emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency. Such signage shall not include commercial advertising, shall not protrude from the WCF, and is subject to approval by the Borough.

(B) The posted sign shall be limited to the minimum size necessary to provide the required information in a readable manner, as determined by the Borough. For Tower-Based WCFs outside the public ROW, the posted sign shall not exceed two (2) square feet in area.

7. Stealth Technology. All WCFs shall employ the most current Stealth Technology available, where appropriate, in an effort to 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 Technically Feasible.

8. Wind and Ice. All WCFs shall be designed to withstand the effects of wind gusts and ice to the standards designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

9. Aviation Safety. WCFs shall comply with the applicable lighting standards of the FAA, the PennDOT Bureau of Aviation, and any other federal state laws and regulations concerning aviation safety.

10. Public Safety Communications. WCFs shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

11. Radio Frequency Emissions. A WCF shall not, 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 Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The WCF Applicant shall submit proof of compliance with all applicable standards relating to radio frequency emissions as part of any complete WCF application.

12. Noise. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough Zoning Ordinance. The use of a backup generator is prohibited except that in Emergency situations and for periodic maintenance and testing by the WCF owner's technicians, such use shall be permitted, where such noise standards may be exceeded on a temporary basis.

13. Non-conforming Wireless Support Structures. WCFs shall be permitted to Collocate upon existing non-conforming Wireless Support Structures.

14. FCC License. If the WCF Applicant is a commercial wireless communications provider, the WCF Applicant must demonstrate that it is licensed by the FCC. The WCF Applicant shall submit with any application copies of all FCC licenses, including the name, address, and Emergency telephone number for the operator of the facility.

15. Inspections; reports. Wireless Communications Facilities shall be inspected once every five (5) years and upon request by the Borough to ensure structural integrity and compliance with applicable federal, state and local codes and regulations. Inspection reports shall be submitted to the Borough upon request.

16. Retention of experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF Applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.

17. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by resolution and may be amended.

18. Indemnification. Each Person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the WCF. Each Person that owns or operates a WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

19. Non-commercial usage exemption. Borough residents utilizing satellite dishes, citizen and/or band radios, and Antennae for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Section 507.

20. Abandonment; Removal. In the event that use of a WCF is to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. A WCF not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:

(A) All abandoned or unused WCFs and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the Borough, unless a time extension is approved by the Borough.

(B) If the WCF or Accessory Equipment is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF regardless of the owner's or operator's intent to operate the WCF in the future.

(C) The Borough reserves the right to pursue all available remedies under the law to ensure removal of the WCF and restoration of the site at the expense of the owner. Any delay by the Borough in taking action shall not invalidate the Borough's right to take action.

(D) Where there are two or more users of a single WCF, this provision shall not become effective until all users have terminated use of the WCF for a period of twelve (12) months.

21. Maintenance. The following maintenance requirements shall apply:

(A) All WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.

(B) Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Borough's residents and in accordance with all applicable Borough, state and federal regulations

(C) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

22. Specific Requirements for Non-Tower Wireless Communications Facilities. The following regulations shall apply to all Non-Tower WCFs that do not meet the definition of a Small WCF:

A. **Small WCF Exemption.** Non-Tower WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Section 507. Such Small WCFs shall be subject only to applicable permitting and the requirements of Sections 507.3 and 507.24.

B. **Special Exception Required.** Non-Tower WCFs are permitted outside the public rights-of-way as a special exception subject to the requirements of this Section 507.

C. **Development Regulations.**

(a) The total height of any Non-Tower WCF that is Collocated on a building or similar structure shall not exceed fifteen (15) feet above the preexisting height of the Wireless Support Structure to which the WCF is attached.

- (b) The total height of any Non-Tower WCF that is Collocated on an electrical transmission tower, streetlight, utility pole, traffic signal, sign or similar structure shall not exceed five (5) feet above the preexisting height of the Wireless Support Structure to which the WCF is attached.
- (c) In accordance with industry standards, all Non-Tower WCF applicants must submit documentation to the Borough showing that the proposed Non-Tower WCF is designed to be the minimum height Technically Feasible and justifying the total height of the Non-Tower WCF.
- (d) If the WCF Applicant proposes to locate the Accessory Equipment in a separate ground-mounted equipment building, the equipment building shall comply with the applicable minimum building setback requirements for the underlying zoning district.
- (e) No part of a Non-Tower WCF shall be located between the front façade of the principal structure and the street the lot fronts on, except for equipment cabinets that are located underground.
- (f) A security fence not to exceed eight (8) feet in height shall surround any separate communications equipment building if such communications equipment building is located at ground level. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular access for the site's principal use.

(D) Design

(a) As part of a complete application for a Non-Tower WCF, the WCF Applicant shall provide photo simulations showing the proposed site of the Non-Tower WCF with a photo-realistic representation of the proposed WCF as it would appear viewed from a minimum of two (2) locations near the proposed site, as well as any other locations as required by the Zoning Hearing Board.

(b) Non-Tower WCFs shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology utilized by the WCF Applicant shall be subject to the approval of the Zoning Hearing Board.

(c) Non-Tower WCFs shall incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.

(d) Non-Tower WCFs and Accessory Equipment must be of a neutral color that is identical to or closely compatible with the Wireless Support Structure so as to make the WCF and Accessory Equipment as visually unobtrusive as possible.

E. Prohibited on Certain Structures. Non-Tower WCFs shall not be located on single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any other residential structure.

F. Third Party Wireless Support Structures. Where the Non-Tower WCF is proposed for Collocation on a Wireless Support Structure that is not owned by the WCF Applicant, the WCF Applicant shall present documentation to the Zoning Hearing Board that the owner of the Wireless Support Structure has authorized Collocation of the proposed Non-Tower WCF.

G. Historic Buildings. No Non-Tower WCF may be located within one hundred (100) feet of any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, located within a historic district, or is included in the official historic structures list maintained by the Borough.

H. Insurance. Each Person that owns or operates a Non-Tower WCF shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower WCF.

I. Timing of Approval.

- (a) Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Borough Zoning Officer, the Borough Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.
- (b) Within ninety (90) days of receipt of a complete application for a Non-Tower WCF, the Zoning Hearing Board shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

23. General and Specific Requirements for Tower-Based Wireless Communications Facilities. The following regulations shall apply to all Tower-Based Wireless Communications that do not meet the definition of a Small WCF.

A. **Small WCF Exemption.** Tower-Based WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Section 507. Such Small WCFs shall be subject only to applicable permitting and the requirements of Section 507.3 and 507.24.

B. Tower-Based WCFs are permitted outside the public Rights-of-Way on all municipally owned property regardless of zoning district.

C. **Special Exception Required.** Tower-Based WCFs are permitted outside the public rights-of-way as a special exception and at a height necessary to satisfy their function in the WCF Applicant's wireless communications system, subject to the requirements of this Section 507.

(i) Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall send via First Class Mail notice to all owners of every property within five hundred (500) feet of the proposed WCF, advising of the subject matter and date of such hearing. Such notice shall be sent at least ten (10) days in advance of any such hearing. The WCF Applicant shall provide proof of the notification to the Zoning Hearing Board along with the list of return receipts received.

(ii) Prior to the Zoning Hearing Board's approval of a special exception authorizing the construction and installation of a Tower-Based WCF, it shall be incumbent upon the WCF Applicant for such special exception approval to prove to the reasonable satisfaction of the Zoning Hearing Board that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable, less-intrusive alternative location exists.

(iii) The special exception application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties. The special exception application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.

(iv) The special exception application shall include evidence that a gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage.

(v) Where the Tower-Based WCF is located on a property that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Zoning Hearing Board that the owner of the property has granted an easement or other property right, if necessary, for the proposed WCF and that any necessary vehicular access will be provided to the WTC.

(vi) The special exception application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.

(vii) The special exception application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions of this Section 507.

(viii) The Borough's regular special exception application fees shall apply for all Tower-Based WCF special exception applications.

D. **Development Regulations.**

(a) Tower-Based WCFs shall not be located in, or within one hundred (100) feet of an area in which all utilities are located underground.

- (b) Combined with another use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - (1) The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.
 - (2) Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and Accessory Equipment, any guy wires, the equipment building, security fence, and applicable screening.

E. Design Regulations.

- (a) Height. The maximum total height of a Tower-Based WCF shall not exceed 100 feet, as measured vertically from the ground level to the highest point on the Tower-Based WCF, including Antennas and Accessory Equipment.
- (b) Visual Appearance and Land Use Compatibility.
 - (1) Tower-Based WCFs shall employ Stealth Technology. The Zoning Hearing Board may require that the Wireless Support Structure be painted a certain color as approved by Zoning Hearing Board or utilize a galvanized finish.
 - (2) All Tower-Based WCFs and Accessory Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.
 - (3) The Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; prevent a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.
- (c) Anti-Climbing Device. If deemed necessary by the Zoning Hearing Board, a Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (d) Minimum Setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street Right-of-Way line shall equal 100% of the proposed Tower-Based WCF's height or the applicable principal building setback, whichever is greater, unless the WCF Applicant shows to the satisfaction of Zoning Hearing Board that the proposed Tower-Based WCF has been designed in such a manner that a lesser setback will have no negative effects on public safety.

F. Fence/Screen.

- (a) A security fence with a minimum height of eight (8) feet may be required to surround any Tower-Based WCF including guy wires, Accessory Equipment, and communication equipment buildings. This requirement or any portion of this requirement may be waived by the Zoning Hearing Board when such fencing is determined to be inappropriate or unreasonable.
- (b) A WCF Applicant for a Tower-Based WCF shall submit a landscaping and screening design complying with the following:
 - (1) The WCF Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
 - (2) Ground-mounted Accessory Equipment must be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by the Borough. Where the site abuts a Residential district, public property, or street, a buffer area shall be provided along the perimeter

abutting the affected district, property, or street to include at minimum two (2) staggered rows of evergreen trees a minimum of six (6) feet in height, which trees shall be replaced with trees of equivalent height when dead or damaged.

G. Accessory Equipment.

- (a) Accessory Equipment shall comply with the minimum setback requirements for the zoning district in which the WCF is located.
- (b) Ground-mounted Accessory Equipment associated or connected with a Tower-Based WCF shall not be located within fifty (50) feet of a lot in residential use.
- (c) Accessory Equipment associated, or connected, with a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technology. All ground-mounted Accessory Equipment, utility buildings and accessory structures shall be architecturally designed to be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding buildings, structures or landscape.
- (d) Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing Antenna space on the Tower-Based WCF.

H. Vehicular Access.

- (a) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service to the Tower-Based WCF.
- (b) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- (c) Where possible, access driveway construction shall at all times minimize ground disturbance and minimize ground disturbance and the cutting of vegetation.
- (d) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
- (e) The Zoning Hearing Board at its sole discretion may waive any of the requirements of this Section.

I. Additional Antennas. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Zoning Hearing Board with a written commitment that it will allow other service providers to Collocate Antennas on the Tower-Based WCF where Technically Feasible. To the extent permissible under state and federal law, the owner of a Tower-Based WCF shall not install any additional Antennas without complying with the applicable requirements of this Section 507.

J. Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Borough Secretary.

K. Storage. The storage of unused equipment, materials or supplies is prohibited on any Tower-Based WCF site.

L. Repair of Non-Conforming Tower-Based WCF. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this section. The Collocation of Antennas is permitted on non-conforming structures.

M. Insurance. Each Person that owns or operates a Tower-Based WCF shall provide the Borough Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF.

N. Timing of Approval.

- (a) Within thirty (30) calendar days of the date that an application for a Tower-Based WCF is filed with the Borough Zoning Officer, the Borough Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.
- (b) Within one hundred fifty (150) days of receipt of a complete application for a Tower-Based WCF, Zoning Hearing Board shall make a decision to approve or deny the proposed Tower-Based WCF and the Borough Zoning Officer shall issue the required building and zoning permits authorizing construction of the WCF.

24. Regulations Applicable to all Small Wireless Communications Facilities. The following regulations shall apply to Small Wireless Communications Facilities:

A. Location standards.

(1) Small WCFs are a permitted use inside the rights of way in all Borough zoning districts subject to the requirements of this Section 507 and generally applicable permitting as required by the Borough Code.

B. Application Procedures.

(1) Applications for Small WCFs shall be submitted to the Borough Zoning Officer.

(2) Applications for Small WCFs shall include the following:

(i) A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Small WCF, and a certificate that the WCF Applicant has included all information required by Borough Zoning Ordinance, signed by a representative of the WCF Applicant.

(ii) A before and after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Small WCF.

(iii) If the Small WCF is proposed for a location on an existing structure or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.

(iv) If installation of a new or replacement Wireless Support Structure is being proposed, the depiction shall include the color, dimensions, material and type of Wireless Support Structure proposed.

(3) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small WCF.

(4) An aerial photograph of the proposed site showing the area within 50 feet of the Small WCF. The aerial photograph shall identify all structures within such radius.

(5) Photo simulations depicting the Small WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the Small WCF.

(6) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed Small WCF and Wireless Support Structure are structurally sound and shall not endanger public health and safety.

(7) A report by a qualified engineering expert which shows that the Small WCF will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.

(8) A certificate of insurance as required by this Section 507.

(9) Certification of the applications compliance with all requirements of this Section 507.

(10) All application fees required by the Borough as detailed in the Borough fee schedule.

(C) Resubmission Upon Denial.

(1) If the Borough denies an application for a Small WCF, the Borough shall provide the communications facility applicant with written documentation of the basis for the denial, including the specific provisions of the Borough Zoning Ordinance on which the denial was based, within five (5) business days of the denial.

(2) The WCF Applicant may cure the deficiencies identified by the Borough and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay any additional application fee. The Borough shall approve or deny the revised application within a 45 day period.

D. Historic Buildings. No Small WCF may be located within one hundred (100) feet of any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Borough.

E. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. The owner of a Small WCF shall notify the Borough of any construction, maintenance, repair and/or removal activities relating to any Small WCF in the ROW.

F. Obstruction. Small WCF and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Borough.

G. Third Party Wireless Support Structures. Where the Small WCF is proposed for Collocation on a Wireless Support Structure that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Zoning Officer that the owner of the Wireless Support Structure has authorized Collocation of the proposed Small WCF. Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the owner within thirty (30) days of notification by the Borough.

H. Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the expense of the owner within thirty (30) days of notification by the Borough

I. Design standards. All Small WCF in the Borough shall comply with the requirements of the Borough *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Borough Office.

J. Timing of Approval.

(1) Within ten (10) business days of the date that an application for a Small WCF is filed with the Borough Zoning Officer, the Borough shall notify the WCF Applicant in writing of any information that may be required to complete such application.

(2) Within sixty (60) calendar days of receipt of an application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the Borough Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(3) Within ninety (90) calendar days of receipt of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, the Borough Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

K. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small WCF in the ROW 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 determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- (1) The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
- (2) The operations of the Borough or other governmental entity in the Right-of-Way;
- (3) Vacation of a street or road or the release of a utility easement; or
- (4) An emergency as determined by the Borough.

L. Time Limit for Completion of Construction. The proposed Collocation, Modification or Replacement of a Wireless Support Structure or the installation of a new Wireless Support Structure with Small WCF attached for which a permit is granted under this

Section shall be completed within one (1) year of the permit issuance date unless the Borough and the WCF Applicant agree in writing to extend the period.

M. Duration of Permit. A permit for a Small WCF shall have a term of five (5) years. Such permit shall be renewed for two additional five (5) year periods if the WCF Applicant is in compliance with this Section 507 and the WCF Applicant has obtained all necessary consent from the owner of the structure upon which the Small WCF will be attached. The WCF Applicant shall submit proof of such compliance with all requirements of this Section 507 prior to the expiration of any five (5) year term.

N. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable fee 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 Small WCF shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above.

O. Insurance. Each person that owns or operates a Small WCF shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Small WCF."

2. Section 27-802 (Commercial Communication Devices) of the Borough's Zoning Ordinance is hereby deleted in its entirety.

THIS ORDINANCE is effective upon enactment.

ENACTED AS AN ORDINANCE of the Borough of Clarks Green this 15th day of March, 2023.

ATTEST:

/s/Joanne Culbertson
Joanne Culbertson, Secretary

BOROUGH OF CLARKS GREEN

BY: /s/David Rinaldi
David Rinaldi, President
Clarks Green Borough Council

Approved this 15th day of March, 2023.

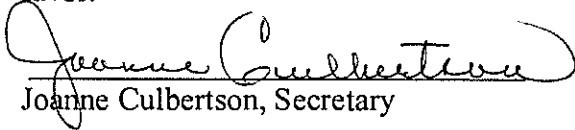
BY: /s/ Joseph Barrasse
Joseph Barrasse, Mayor

Mr. Toms motioned to adopt Ordinance No. 1 of 2023, amending Chapter 27 of the Code of Ordinances of the Borough of Clarks Green (Zoning) to include regulation of wireless communication facilities within the Borough, seconded by Ms. Igoe. Mr. Williams, Mr. Curran, Ms. Igoe, Mr. Nealon, Mr. Toms, and Mr. Rinaldi voted in favor. Mr. Rinaldi informed Council the rear garage entrance door is damaged and needs to be replaced. Mr. Rinaldi explained it had repaired on several occasions but now, the recent camera bracket that was installed to the frame of the door started separating so to continue with the access hardware and camera systems installation a replacement door is needed. Mr. Rinaldi told Council a quote from Mesko Glass was obtained in the amount of \$4,925.00 and entertained a motion to purchase. Mr. Toms motioned to replace the rear side garage door at the cost of \$4,925.00, seconded by Ms. Igoe. Mr. Toms, Ms. Igoe, Mr. Nealon, Mr. Williams, Mr. Curran and Mr. Rinaldi voted in favor. The next agenda item was an Electronic Systems Compliance Upgrade quote in the amount of \$5,875.99 from Appel for required infrastructure upgrades such as wiring, a gateway to protect office networks, backup storage which will allow our new technologies to work together. Mr. Rinaldi reminded Council it has been many years since the Borough replaced older computers. Ms. Igoe motioned to accept the Appel's Compliance Upgrade quote at the cost of \$5,875.99, seconded by Mr. Toms. Mr. Curran, Mr. Williams, Mr. Toms, Mr. Nealon, Ms. Igoe and Mr. Rinaldi voted in favor. Mr. Rinaldi told Council after the equipment upgrades are installed the Borough will finally be positioned for Appel to manage and support our systems for \$572 monthly. Ms. Igoe motioned to accept Appel's Service Agreement at the cost of \$572 monthly, seconded by Mr. Nealon. Ms. Igoe, Mr. Nealon, Mr. Toms, Mr. Williams, Mr. Curran and Mr. Rinaldi voted in favor. Mr. Rinaldi entertained a motion for the partial payment of the skid steer at the cost of \$61,496.97 and requesting partial reimbursement from the LST Grant award in the amount of \$61,496.97. Mr. Rinaldi stated the remainder of the equipment in Bartron's proposal

consisting of the brush attachments still have not been delivered nor has Barton's responded to the Borough's inquiries as to a delivery date. Ms. Igoe motioned, seconded by Mr. Nealon. Mr. Nealon, Ms. Igoe, Mr. Curran, Mr. Toms, Mr. Williams and Mr. Rinaldi voted in favor. Mr. Rinaldi told Council our grant consultants will do the necessary paperwork for the LSA Grant reimbursement.

NEW BUSINESS: Mr. Rinaldi reminded Council that financial statements need to be filed by May 1, 2023. Mr. Williams reported to Council that he had received a notice from PPL Electric that trees will be trimmed but did not have any dates. Secretary Culbertson stated she will contact PPL on this notice. Mr. Curran asked if we had a generator for electric backup and safety purposes and if not our Covid funding could cover the cost. Mr. Rinaldi stated that is an excellent suggestion and it is something that should be considered since it would end the safety issue with the Borough traffic light during power outages.

MOTION FOR ADJOURNMENT: Mr. Rinaldi entertained the motion to adjourn the meeting. Ms. Igoe motioned to adjourn the meeting at 7:45 P.M., seconded by Mr. Toms. All in attendance voted in favor.


Joanne Culbertson, Secretary

CLARKS GREEN BOROUGH
COUNCIL MEETING
AGENDA
March 15, 2023
7:00 PM

1. Call To Order and Pledge of Allegiance – President Rinaldi
2. Roll Call - Secretary Culbertson
3. Motions to approve the Council Meeting Minutes February 15, 2023
4. Public Comment.
5. Police and/or Fire Report.
6. Mayor's Report.
7. Review of Borough Financials, Budget vs. Actual Report and Motion to pay bills. Discussion on maturing Wayne Bank CD.
8. Consideration of Clarks Green Borough Resolution 3 of 2023 reflecting change in scope of 2022 Small Water and Sewer Grant Application.
9. Consideration of Clarks Green Borough Ordinance 1 of 2023 Amending the Clarks Green Borough Zoning Ordinance adding new Section regulating Wireless Transmission Facilities within the Borough.
10. Consideration of proposal to replace damaged rear garage entrance door. Mesko Glass March 10, 2023 Door Replacement Proposal in the amount of \$4925.00.
11. Consideration of Appel IT Support Agreement for Borough computer and related systems maintenance including Borough document retention and control support.
12. Consideration of partial payment for Skid Steer and request for partial reimbursement from LST Grant award.
13. Other Business/discussion. Reminder all elected and appointed Borough Officials need to file their Statement of Financial Interest by May 1, 2023.
14. Motion to Adjourn.

NOTE TO VISITORS: Please sign the attendance sheet and indicate if you wish to observe the meeting or to address Council, stating the agenda topic on which you would like to comment. Thank you.