



Town of Easton Design Manual for Permits and Installations in the Right of Way

Adopted by the Town Engineer on April 15, 2019
pursuant to the authority granted by Ordinance 731

SECTION I: PURPOSE

Chapter 24, Article IV of the Code of the Town of Easton requires a permit for the placement of all facilities or utilities, whether public or private, within public roads, public Right of Way, and public utility easements (collectively “the Right of Way). The purpose of these guidelines is to establish general procedures and standards, consistent with all applicable federal, state, and local laws, for the implementation of Chapter 24 Article IV. The goals of these guidelines are to:

- A. Provide standards, technical criteria and details for the process and standards required for obtaining a permit for the placement of facilities or utilities in the Right of Way.
- B. Preserve the character of the Town’s neighborhoods and corridors.
- C. Ensure that all installations in the Right of Way conform with all applicable health and safety regulations and will blend into their environment to the greatest extent possible.
- D. Comply with, and not conflict with or preempt, all applicable state and federal laws.
- E. Treat each Applicant in a competitively neutral and nondiscriminatory manner with considerations that may be unique to the technologies, situation, and legal status of each particular Applicant.
- F. Ensure that the Town knows what entities are occupying its Rights of Way, and to ensure that entities occupying the Rights of Way do not harm the public or property, or unduly interfere with, or delay public or private projects that requires use of the Rights of Way, and to minimize the size and number of facilities in the Town Right of Way to advance public safety, minimize clutter and enhance the appearance of the community.

SECTION II: APPLICABILITY

These regulations apply to installation of any and all facilities, including poles, wires, equipment, or any fixtures of any kind by any person within Town controlled Right of Way, but shall not be applied to create any conflict with applicable state law or applicable and enforceable agreements or easements, including the following State law provisions, pre-existing agreements, and/or easements:

- A. The applicable provisions of the Public Utilities Article of the Maryland Annotated Code;
- B. The terms of any existing, unexpired and applicable franchise agreement or license agreement between the Town and any person, which is in force and enforceable; or

- C. Any applicable and enforceable utility easement owned by the Applicant.
- D. As provided in § 24-58 of the Code of the Town of Easton, the Easton Utilities Commission shall not be required to obtain a permit for work in the Right of Way.
- E. This Design Manual is adopted in accordance with the authority granted by Ordinance 731 adopted by the Town. In the event of a conflict between this Design Manual and the provisions contained in the Town Code, the standard which provides the Town with the greatest protection as determined by the Town Engineer shall govern.

SECTION III: DEFINITIONS

Abandoned means any facilities or structures (including by way of example but not limited to poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that are unused or in a non-functioning condition for a period of one hundred eighty (180) days without the Operator otherwise notifying the Town and receiving the Town's approval.

Antenna means communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

Applicant means any Person applying for a permit under this Chapter including the Applicant's officials, employees, agents, and contractors.

Collocation or Collocate means to install, mount, maintain, modify, operate, or replace wireless facilities on a Wireless Support Structure.

Decorative Pole means a pole, arch, or structure other than a street light pole placed in the Right of Way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following (a) electric lighting; (b) specially designed informational or directional signage; (c) temporary holiday or special event attachments.

Operator means a facility or utility operator, including but not limited to wireless service provider, cable operator, or a video service provider that operates a Small Cell Facility and provides wireless service. Operator includes a wireless service provider, cable operator, or a video service provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(2), and services that are fixed in nature or use unlicensed spectrum.

Permit means the non-exclusive grant of authority issued by the Town of Easton to place facilities or utilities in public roads, public Right of Way or utility easements in accordance with these the Code of the Town of Easton and corresponding regulations and standards.

Permittee means the owner and/or Operator issued a permit to work in or install facilities, equipment or structures in the road, Right of Way or utility easement under this chapter and the person that owns facilities, equipment or structures permitted to be installed under this chapter, including the Permittee's officials, employees, agents, and contractors.

Right of Way means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a compatible public use, which is owned or controlled by the Town.

Small Cell Facility - A facility designed to provide wireless voice, data and/or image transmission in concentrated areas that meets both of the following qualifications:

- (a) Each antenna could fit within an enclosure of no more than three (3) cubic feet in volume; and
- (b) All other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Town means the Town of Easton.

Utility Pole means a structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric or telecommunications service. "Utility pole" excludes street signs and Decorative poles.

Wireless Support Structure means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. Wireless Support Structure excludes a Utility pole or other facility owned or operated by the Easton Utilities Commission.

SECTION IV: REQUIREMENTS FOR ALL WORK PROPOSED IN THE RIGHT OF WAY

Placement, modification, operation, relocation and removal of a facility or utility in the Right of Way shall comply with all provisions of Chapter 24, Article IV of the Town Code, these Design

Guidelines, and any and all other applicable requirements, which at a minimum shall include the following:

- A. An application, in a form approved by the Town Engineer, must be submitted by all persons who will own or operate any part of the facility or utility that is the subject of the application.
- B. The application must show that the facilities or utilities and work proposed in the application will comply with all requirements in the Code, this Design Manual, and any and all other applicable standards.
- C. Applications must be accurate, and must include detailed descriptions of what the work that is the subject of the application involves. An application shall include pre-construction work, construction work, and restoration work required, along with a description of the facilities and utilities and property that are the subject of or affected by the application, and a pre- and post-construction description of the same.
- D. A permit shall not be issued for a proposed installation when the location selected in the application is in an area where there is an overconcentration of structures or facilities in, on or over the Right of Way.
- E. The structure or facility shall not obstruct pedestrian or vehicular traffic flow or sight lines, and not obstruct parking or the entering or exiting of persons from vehicles parked in the Right of Way.
- F. The proposed installation shall comply with the Americans with Disabilities Act.
- G. A proposed pole shall have a diameter and height not greater than the maximums established by the Town Engineer, but be tall enough to ensure that all attached equipment is at least fifteen (15) feet above ground.
- H. A replacement pole shall be located within two (2) feet of the base of the previously existing pole and at the same distance from the edge of the travel lane, unless the Town Engineer determines that a different location is preferable to facilitate pedestrian use of the Right of Way, vehicle and pedestrian sight lines, or the Town's use of the Right of Way.
- I. An equipment cabinet shall comply with size limits and placement requirements established by the Town Engineer, including maximum volume limits for all equipment cabinets associated with a pole.
- J. An antenna shall be the least visible antenna possible to accomplish the coverage objectives.

- K. Antennas, antenna mounts and cabinets shall be situated, screened, shrouded, concealed or treated to minimize visual and acoustic impact (including having antennas flush mounted to the extent reasonably feasible), as determined by the Town Engineer. All antenna mounts shall be designed so as not to preclude future collocation by the same or other operators or carriers.
- L. Antennas, antenna mounts, cabinets and poles shall have a color and finish to minimize the visual impact to the neighborhood, taking into consideration historic area designation and color and design schemes for Town facilities, commercial districts, and other areas with aesthetic guidelines.
- M. All equipment shall be designed to be resistant to unauthorized access, climbing, vandalism, and other activities that result in hazardous situations, interception of communications, or attractive nuisances.
- N. For all excavations, the Permittee shall, within the time specified in the permit or, if no time is specified therein, within ten (10) days after completion of the work authorized by the permit, adequately refill with the same type of material as had been removed or with other materials approved by the Town Engineer, without disturbing or damaging existing Town infrastructure, and restore the surface of the place so excavated to as good condition as existed prior to excavation.
- O. The Applicant shall post any required bonds or other financial security to insure the completion, safety, workmanship and restoration of the work and/or work area so permitted.
- P. The Town Engineer may impose such conditions as are necessary to protect the public health, safety and welfare.
- Q. All facilities shall be subject to relocation at the expense of the Permittee in the event that the privately-owned facility is found to conflict with future public facilities or with access to repair, replace or maintain existing or future public facilities.
- R. Prior to the issuance of a permit, the Permittee shall execute a written agreement which may be a franchise, right-of-way use agreement, or license agreement as required by the Town depending on the particular use being made. All agreements shall include provisions for insurance and indemnification as is reasonably necessary to protect the interests of the Town.
- S. The Permittee shall obtain and maintain all required consents, licenses or franchises from the Town with respect to the facilities that are the subject of the permit.

- T. Nothing in this Article precludes or limits the Town from applying its generally applicable power to protect the health, safety, and welfare when granting a permit for activities within the public roads, public rights-of-way, and public utility easements.

- U. If the Permittee is not the person who will own the facilities or utilities to be installed, or is not the person on whose behalf the work will be performed, those entities must submit an agreement in appropriate form acceptable to the Town Attorney, accepting responsibility for all acts and omissions by Permittee as if the same had been done by them, and agreeing to ensure that all work of the Permittee is performed correctly, and all requirements with respect to the work are satisfied.

- V. In the event the Town needs to repair or maintain a Town owned structure, the Town may disconnect a utility connection to a specific facility when located adjacent to or mounted on a Town owned structure.

- W. Permits expire one (1) year from the date of issuance or upon completion, final inspection, and acceptance of the work, whichever is sooner, unless the Town Engineer specifies a shorter or longer term when issuing the permit.
 - 1.) Extension: The Town Engineer may approve a permit extension for good cause.
 - 2.) Amendment: The Town Engineer may amend the beginning and completion dates for work under renewal permits to avoid conflict(s) with previously approved permits or emergency activities.

- X. The Town of Easton may revoke any permit for failure to comply with any permit requirements or for violation of any law, ordinance, or regulation. Except for emergencies, no work shall be performed after any permit has been revoked until the circumstances that caused the revocation have been addressed, any violations corrected, the project brought into compliance with all requirements and the Town of Easton reinstates the permit.

SECTION V: STANDARDS APPLICABLE FOR ALL WORK PROPOSED IN THE RIGHT OF WAY

All installations in the Right of Way shall comply with the following standards:

- A. All necessary agreements must be entered into, and licenses and permits must be obtained, before any work is performed in the Rights of Way, and the Permittee must comply with all applicable standards, permit and/or license conditions, the Code of the Town of Easton, and this Design Manual.

- B. Permits issued by the Town are not transferable without Town approval.

- C. It is the responsibility of the Permittee to call Miss Utility, 1-800-441-8355 or 811 prior to any excavation.
- D. All work must be performed in a manner that minimizes work to persons and property, and that is consistent with sound practices for work of the type being performed.
- E. Any use of the Right of Way by Permittee, Applicant, owner or Operator of the proposed utility or facility shall in all matters be subordinate to the Town's use and use by the public, except as provided by Maryland law. Without limitation of its rights, the Town expressly reserves the right to exercise its powers now and hereafter vested in or granted to the Town as to the use, management and control of Town Rights of Way.
- F. Permittees, Applicants, Operators, and owners of the proposed utility or facility shall cooperate promptly and fully with the Town and provide accurate and complete onsite information regarding the nature and horizontal and vertical location of its facilities located within the Right of Way, both underground and overhead, at the sole cost and expense of the Permittee, Applicant, Operator, and/or owner.
- G. All facilities and utilities shall be located and laid so as not to disrupt or interfere with any other pipes drains, sewers, irrigation systems, telecommunication systems or other structures or public improvements already installed without the permission of the Town, and without notifying and obtaining any consent required from affected Right of Way occupants. The lawful use of Right of Way or other public areas of the Town shall not be disrupted or interfered with without the Town's permission.
- H. Facilities and utilities must continue to satisfy the minimum conditions for approval after installation. Where owners of facilities or utilities fail to satisfy the minimum conditions or where it fails to maintain facilities or utilities in a safe condition, or creates risk to persons or property, the Town may, in addition to revoking the permit, take any action provided for in this Design Manual, or in state or local law.
- I. If the Town determines that a permit was issued improperly, the permit may be revoked.
- J. In the event that any Right of Way is eliminated, discontinued, closed or de-mapped, any rights obtained pursuant to any permits issued with respect to such Right of Way shall cease upon the effective date of such elimination, discontinuance, closing or de-mapping. Except as may be required by state law, an owner of a utility or facility in the Right of Way may be required, at its expense, to remove all of its facilities or utilities from the Right of Way. If it fails to do so, the Town may cause the removal and charge the owner for the cost of the same.

- K. The Town may inspect work being performed in the Right of Way at any time, including work to repair or restore the Right of Way, and may inspect the facilities or utilities in the Right of Way.
- L. At the time of any inspection, the Town may order the immediate cessation of any work, which poses a serious threat to the life, health, safety or well-being of the public, or direct a Permittee, Operator, or owner of a facility or utility to take action to correct any condition that is in violation of these regulation or applicable standards. The Town may revoke the permit and take any other legal or equitable action at law, and may also issue a municipal infraction punishable by fines as provided in section 1-8B of the Code of the Town of Easton for any work and any facility or utility that does not conform to the standards of this Design Manual or Town Code.
- M. The permit, plans and the specification of construction and materials shall be available at all times for inspection by the Town.
- N. Any person performing work in the Right of Way must display their names and telephone numbers on vehicles working in the public Right of Way.
- O. Vehicular and pedestrian traffic must be maintained through all phases of construction except as specifically permitted by the Town.
- P. No parking of vehicles will be allowed on sidewalks or areas outside of the street pavement except when specifically shown on an approved Traffic Control Plan or with prior approval from the Town.
- Q. No materials or equipment shall be stored in the Town Right of Way, without prior approval by the Town, including the parking of vehicles, storing of equipment or materials under any roadside tree, and in no event may any debris be left in the Right of Way.
- R. The Town has adopted Standard Details which are technical specifications required for work including work in the Right of Way. The Permittee, Operator and owner shall comply with all Standard Details. In the event of a conflict between Standard Details and the provisions of this Design Manual, the standard providing the Town with the greatest degree of protection as determined by the Town Engineer shall govern.

SECTION VI: ADDITIONAL STANDARDS APPLICABLE TO UNDERGROUND INSTALLATIONS AND EXCAVATIONS

- A. These requirements apply to any excavation, repair and restoration in a Right of Way, whether on a paved street or sidewalk, green space, or any area, as applicable to the specific excavation and restoration which is required. Excavation includes any activity that disturbs the surface or subsurface of a Right of Way, including but not limited to installation of a foundation for a support structure. These requirements are in addition to the general requirements that apply to work in the Right of Way.
- B. No person may make any cut, excavation or grading of any Right of Way other than excavations necessary for emergency repairs without first, in advance, securing a Right of Way permit specifying that such excavation is specifically permitted. For emergency repairs, a person must apply for a permit as soon as possible after the repair commences, and in the course of performing work, comply with applicable standards and these regulations as far as possible in light of the emergency.
- C. The Permittee shall not at any one time open or encumber more of the Right of Way than shall be reasonably necessary to enable completion of the project, as permitted, in the most expeditious manner.
- D. The Permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities or utilities, limit all excavations to those excavations that are necessary for efficient operation.
- E. The Permittee shall not allow such an excavation to remain open longer than fourteen (14) days, and any excavation must be covered at the end of each day. As part of any permit application, the work to be performed shall be fully described, and the time for completion specified. The Town may shorten the time permitted, and the permit shall specify the time for work completion.
- F. An Applicant for a permit shall notify the Town no less than five (5) working days in advance of any construction, reconstruction, repair, location or relocation of facilities or utilities which would require any street closure or which reduces traffic flow.
- G. Except in the case of an emergency reasonably determined by the Permittee, no such closure shall take place without notice and prior authorization from the Town and pursuant to a Town approved plan for traffic control.
- H. Nonemergency work on streets may not be performed before 7:00 a.m. or after 5:00 p.m. in order to minimize disruption to traffic flow unless otherwise approved by the

Town Engineer.

- I. Prior to any excavation, Permittee shall provide notice to the Town in advance with respect to any municipal traffic signal and street light systems as appropriate.
- J. The Permittee shall be liable for any damage to underground facilities due to excavation work prior to obtaining location of such facilities, or for damage to any underground facilities that have been properly identified prior to excavation. The Permittee shall not make or attempt to make repairs, relocations or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.
- K. The Permittee shall be responsible for providing adequate traffic control to the surrounding area as approved by the Town. The Permittee shall perform work on the Right of Way at such times as will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood.
- L. The Permittee shall refer to Town Details for requirements related to street cuts and trench repair.
- M. Any application that proposes excavation work requiring backfilling shall include a plan for covering the unfilled excavation, and shall specify the time by which the excavation will be backfilled.
- N. If an excavation cannot be backfilled immediately and is left unattended, the Permittee shall notify the Town and properly secure the site with properly ramped and pinned steel plates, in a manner approved by the Town Engineer. The Permittee has sole responsibility for maintaining proper barricades, safety fencing, traffic control, roadway plates and/or lights as required by the Town and under applicable standards, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.
- O. In restoring the Right of Way, the Permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the Permittee shall, upon notification from the Town, correct all restoration work to the extent necessary, using any method as required by the Town. Said work shall be completed within a reasonable time, not to exceed thirty (30) days of the receipt of notice from the Town, not including days which work cannot be done because of circumstances constituting Force Majeure or days when work is prohibited as unreasonable. In the even the Permittee is required to perform new restoration pursuant to the foregoing guarantee, the guarantee period for such new restoration shall be an

additional twenty-four (24) months. If a Permittee fails to restore within the time specified, the Town may, after providing fifteen (15) days' notice, make such restoration at the Permittee's cost. Provided that, upon determination by the Town that the failure of the Permittee's work creates an immediate risk to persons or property, or in the event of an emergency, the Town may restore the Right of Way at the Permittee's cost, without providing Permittee notice.

- P. The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.
- Q. The owner of the facility or utility in the Right of Way or Permittee shall employ a testing laboratory approved by the Town, which shall certify the proper backfilling on any street cut. This provision shall be waived when flowable fill is used as backfill or with the permission of the Town.
- R. Whether or not specifically required by a permit, a Permittee shall notify the Town to schedule an inspection at the start of backfilling. Upon completion of all Right of Way restoration activities, the Permittee shall schedule a closeout inspection.
- S. When any corrective actions required have been completed and inspected to the Town's satisfaction, the twenty-four (24) month maintenance period will begin.

SECTION VI: ADDITIONAL STANDARDS APPLICABLE TO ABOVE GROUND FACILITIES INCLUDING COMMUNICATIONS FACILITIES, COMMUNICATIONS SUPPORT STRUCTURES, AND SMALL CELL FACILITIES

- A. Communications facilities may only be installed on existing utility poles, and only entities certified by the Maryland Public Service Commission pursuant to the Annotated Code of Maryland, Public Services and Utilities, Division I, Title 7 or Title 8, as amended, may erect or contract to erect replacement poles in the Right of Way. To allow the installation of an additional or replacement pole, the Town Engineer must find that:
 - (1) Additional communications facilities are necessary in the location of the proposed pole to provide adequate telecommunications coverage; and
 - (2) Existing poles do not have the capacity for the necessary communications facilities.
- B. If proposed to be attached to a privately-owned utility pole, be authorized by an executed attached agreement with the utility pole owner, setting forth, at a minimum, the title, date and term of the agreement.

- C. Be necessary in the location of the proposed facility to provide adequate service or telecommunications coverage.
- D. Allow up to but not more than three antennas per pole;
- E. Have no exterior wiring if the pole on which it is mounted can accommodate internal wiring or, if necessary, have exterior wiring enclosed in a shielded conduit; and
- F. Upon installation of the antenna, the radio frequency or electromagnetic waves emissions for the antenna of, if applicable, the cumulative emissions from the new antenna and any collocated antennas, shall be tested for compliance with federal limits. If an antenna exceeds federal emission limits or causes the antennas collocated on a support structure to exceed federal emission limits, the newly installed antenna must be removed by the Applicant within five (5) days at its own expense.
- G. Above ground facilities including communications facilities shall be permitted to be located within a historic district, but shall be subject to the provisions of Article VII of Chapter 28 Zoning of the Code of the Town of Easton. Facilities mounted on existing or new light poles, utility poles, and other poles shall be considered “construction” of a “structure” for purposes of application of that Article; and the mounting of facilities on surfaces, facades, or rooftops of existing “structures,” which for purposes of this Section shall include existing buildings, light poles, and other such locations as are deemed “structures” in the standard application of Article VII, shall be considered an “alteration” to such “structure.” Any new light pole erected for purposes of mounting a facility shall be designed consistent with other existing light poles within the surrounding area; other types of new poles shall not be permitted to be installed for purposes of mounting a facility.
- H. Facilities shall not interfere with public safety telecommunications. Any application for a permit for a facility shall be accompanied by an intermodulation study which provides a technical evaluation of all proposed transmissions and indicates all potential interference problems. Prior to the introduction of any new service, the owner/operator shall provide the Town at least 10 calendar days' written notice to the Town Engineer in advance of such service and allow the Town to monitor interference levels during the testing process.
- I. Use of backup power sources. The use of a diesel generator or other backup power sources shall be limited to actual power-outage events and any operation necessary for testing and maintenance. Permanent or continuous use of backup power sources is prohibited.
- J. In residential areas, no installation may be located within 300 feet radius of another

installation including any such installation located on private property, except in the case of a cluster installation that does not result in a substantial increase in size. In no case may more than three antennas be clustered on a single pole in a residential area or in a historic district.

K. An Applicant for a permit for a facility including a Small Cell Facility or a Wireless Support Structure, shall, in addition to any other requirements contained herein and in the Design Manual, include the following:

- (1) A report from a qualified and licensed professional engineer that describes the design, including cross sections and elevations; documents the height above grade for the facility and potential mounting positions for collocated antenna (if any) and the minimum separation distances between antenna; describes the location of the facility, including the number of additional antenna that can be accommodated (if any); documents what steps the Applicant will take to avoid interference with established public safety telecommunications; includes an engineer's stamp and registration number; includes architectural renderings of the facility illustrating what it will look like at the proposed location and from various vantage points, as may be required by the Town Engineer.
- (2) The Applicant shall specify whether the application is subject to any Federal Communications Commission application requirements or federal or state law, and if so, identify the law and the applicable requirements.
- (3) The Applicant shall provide proof that it is a licensed provider and will comply with all Federal, State, and Town laws and regulations, including those relative to wireless service.
- (4) A master report plan of Applicant's current proposed communication network including an illustrative wireless communications map detailing existing and proposed wireless coverage, antenna sites and collocation sites.
- (5) The application shall include the number of potential collocation sites on the proposed facility.
- (6) The Applicant shall provide a safety report demonstrating that the structure can safely accept installation of the antennas and additional communication facilities.
- (7) A certified analysis showing that the proposed Facility satisfies the FCC's Radio-Frequency (RF) exposure guidelines applicable on an individual basis, and on a cumulative basis (considering all frequencies, and all emitting sources as may be

required by FCC regulations).

- (8) In the case of an Applicant requesting the installation of a new pole, a statement of how the Applicant intends to satisfy the requirements of §8-103 of the Public Services and Utilities Article of the Maryland Annotated Code, as amended from time to time, which limits new pole construction to only those necessary for the purpose of supporting telephone lines to provide telephone service.

L. **Most Preferable Locations:** The following are the most preferred areas for new Small Cell Facilities.

- (1) *Industrial Areas* if not adjacent to a municipal park, residential area or historic district.
- (2) *Highway Rights of Way* areas if not adjacent to a municipal park, residential area or historic district.
- (3) *Retail and Commercial Areas* if not adjacent to a municipal park, residential area or historic district.

M. **Least Preferable Locations:** The following are the least preferred areas for new Small Cell Facilities.

- (1) Residential Areas
- (2) Parks
- (3) Historic District
- (4) Mixed-Use Waterfront District (MXW)

N. **Order of Preference for Wireless Support Structures:** The following list indicates the order of preference from most to least preferable for Wireless Support Structures for Small Cell Facilities.

- (1) **Existing Utility Poles:** It is the Town's preference that Small Cell Facilities be installed on existing utility poles (electric or telephone) or lashed onto existing telephone or electrical lines between existing utility poles.
- (2) **Non-Ornamental Municipal Service Poles:** If the Applicant does not have the right to use existing utility poles or lines under reasonable terms and conditions or the

utilization imposes technical limits, the Town prefers that the Applicant next look to existing non- ornamental municipal street lights or traffic signal structures.

- (3) New Poles: If the first two items have proven to be unavailable, the Town prefers the installation of a new pole to serve as a Wireless Support Structure.
 - (4) Ornamental Municipal Service Poles: The use of ornamental municipal street lights and traffic signals as Wireless Support Structures is discouraged. These should only be proposed if the three items listed above are unavailable or when requested by the Town based on the proposed location. Use of ornamental traffic signal mast arms is preferred over use of ornamental street lights.
 - (5) Sign Poles (15 feet or taller): The only sign poles that may be considered are those that are at least fifteen (15) feet tall. These are the least preferred option for a Wireless Support Structure.
- O. The Town reserves the right to propose an alternate Wireless Support Structure to the one proposed in the application. The Town may also propose an alternate location for a new Wireless Support Structure within one hundred feet of the proposed location or within a distance that is equivalent to the width of the Right of Way in or on which the new Wireless Support Structure is proposed, whichever is greater, which the operator shall use if it has the right to use the alternate location on reasonable terms and conditions and the alternate location does not impose technical limits or additional costs.
- P. Generally, an Applicant shall construct and maintain Small Cell Facilities and Wireless Support Structures in a manner that does not (1) obstruct, impede or hinder the usual travel or public safety on a Right of Way; (2) obstruct the legal use of a Right of Way by other utility providers; (3) violate nondiscriminatory applicable codes; (4) violate or conflict with the Town Code or this Design Manual; and (5) violate the federal Americans with Disabilities Act.
- Q. The Town desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community. Generally, a Small Cell Facility and/or Wireless Support Structure shall match and be consistent with the materials and finish of the adjacent municipal poles of the surrounding area adjacent to their location. In the absence of adjacent municipal poles, the Wireless Support Structure shall match the materials and finish of the adjacent utility poles.
- R. Antennas on Existing or Replaced Utility Poles. The antenna(s) associated with collocation on existing or replaced utility poles must have concealed cable connections, antenna mount and other hardware.

- S. Small Cell Facilities and Wireless Support Structures and related equipment shall be placed, as much as possible, in line with other utility features and in a location that minimizes any obstruction, impediment or hindrance to the usual travel or public safety on a Right of Way.
- T. Small Cell Facilities shall be installed at least fifteen (15) feet above the ground. The overall height of a new Wireless Support Structure and any collocated antennas shall not be more than thirty-five (35) feet in height above ground level.
- U. For an existing Wireless Support Structure, the antenna and any associated shroud or concealment material are permitted to be collocated at the top of the existing Wireless Support Structure and shall not increase the height of the existing Wireless Support Structure by more than five (5) feet.
- V. No protrusions from the outer circumference of the existing structure or pole shall be more than two (2) feet. The pole and all attachments to the pole that are projecting, or any equipment or appurtenance mounted on the ground, shall comply with Americans with Disabilities Act and shall not obstruct an existing or planned sidewalk or walkway. The Town, at its option, may waive the requirement to limit the protrusion to no more than two (2) feet.
- W. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables for Small Cell Facilities shall not be spooled, coiled or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.
- X. On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of 4" diameter. Such conduit shall be finished in zinc, aluminum or stainless steel, or colored to match those metal finishes.
- Y. Ground equipment should be minimal and the least intrusive possible. It should be placed to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a Right of Way, maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic and maximize the line of sight at street corners and intersections and minimize hazards at those locations. The Town may deny a request that negatively impacts vehicular and/or pedestrian safety.
- Z. The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the metal pole (with the exception of wood power poles) and undergrounded between the pole and the ground-mounted cabinet.

- AA. All pole-mounted equipment must be installed as flush to the pole as possible. Equipment attached to metal poles must be installed using stainless steel banding straps. Equipment attached to wood poles may be bolted to the pole or installed using stainless steel banding straps. When the straps are attached to a metal pole, they must match the color of the pole. Through-bolting or use of lag bolts is prohibited. All pole mounted equipment shall be located as close together as technically possible and if possible, on the same side of the pole.
- BB. When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage. Equipment cabinet may not extend more than 24 inches from the face of the pole. The equipment cabinet must be non-reflective, colored to match the existing pole if attached to a metal pole, and in the color of brushed aluminum if attached to a wood pole. Equipment cabinets should be mounted as flush to the pole as possible. Any standoff mount for the equipment cabinet may not exceed four (4) inches.
- CC. The Town strongly encourages site operators to use flat-rate electric service when it would eliminate the need for a meter. When a meter is necessary, site operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter base should be painted to match the pole.
- DD. Cabinets for telephone and/or fiber optic utilities may not extend more than 24 inches from the face of the pole, and must be painted, wrapped or otherwise colored to match the pole. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna.
- EE. Equipment in an environmentally controlled underground vault may be required in some areas where technologically feasible and appropriate for the location.
- FF. The centerline of any new Wireless Support Structure must be aligned, as much as possible, with the centerlines of existing poles on the same street segment, but only if the new structure's height does not conflict with overhead power utility lines and facilities.
- GG. In all locations, the Town reserves the right to require a metal pole rather than a wood pole based on the build and/or natural environmental character of the proposed site location. The Town will not approve any new wood poles in the Easton Historic District.
- HH. All new wood poles must be direct buried to a depth determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Maryland, and subject to

the Town's review and approval.

- II. All new metal poles must be supported with a reinforced concrete pier. The design including the pier, footings and anchor bolts shall be stamped, sealed and signed by a professional engineer licensed and registered in the State of Maryland, and subject to the Town's review and approval. All anchor bolts must be concealed from public view with an appropriate pole boot or cover subject to the Town's prior approval.

- JJ. All metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the Town and finished in accordance with these guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements.

- KK. Metal poles must be painted black. The Applicant may select a paint or powder coat system in compliance with ATSM standards.

- LL. The Town may require the Applicant to install functional streetlights and/or brackets to hold hanging flower planters, flags and/or banners when technically feasible and the Town determines that such additions will enhance the overall appearance and usefulness of the proposed facility. The Town may install hanging flower planters, flags and/or banners utilizing the brackets.

- MM. Installations on all Town-owned poles shall have an industry standard pole load analysis completed, sealed and signed by a Professional Engineer licensed and registered by the State of Maryland and submitted to the Town with each permit application indicating that the Town-owned pole to which the Small Cell Facility will to be attached will safely support the load.

- NN. A Small Cell Facility on a Town-owned Wireless Support Structure may not use the same power source that provides power for the original purpose of the Wireless Support Structure.

- OO. Installations on all traffic signal structures or street lights must not interfere with the integrity of the facility in any way that may compromise the safety of the public. The installation must not interfere with other existing uses on the pole such as traffic signals, street lights, hanging flower planters, flags, and/or banners. Installation of Small Cell Facilities on any traffic signal structure or street light shall (a) be encased in a separate conduit than the traffic light electronics; (b) have a separate electric power connection than the traffic signal/street light structure; and (c) have a separate access point than the traffic signal/street light structure.

- PP. Installations on sign poles may only occur if the sign pole is fifteen (15) feet or taller.

- QQ. An application for space on a Town owned or operated Wireless Support Structure that conflicts with space reserved for future public safety or transportation uses documented in an approved plan in place at the time of the application will be denied unless the Operator pays for the replacement of the pole or Wireless Support Structure and the replaced pole or Wireless Support Structure will accommodate the future use and the Small Cell Facility.
- RR. It is the Town's preference that all new Wireless Support Structures be camouflaged, except for those located in an area that is predominantly industrial. The Applicant shall submit their proposal for camouflage with the permit application.
- SS. Small Cell Facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. Unless approved by the Town in writing, there shall be no external cables and wires hanging off a pole. The approved ones shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible.
- TT. Equipment enclosures, including electric meters, shall be as small as possible. Ground-mounted equipment shall incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, landscaping, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
- UU. Landscape screening shall be provided and maintained around ground mounted equipment enclosures. The planting quantity and size should be such that 100% screening is achieved within two years of installation. The Town may grant an exemption from this landscaping requirement based on the characteristics of the specific location for the equipment enclosure. Tree "topping" or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs or other landscaping already existing in the Right of Way must be noted in the application and must be approved by the Town.
- VV. When underground vaults are proposed, they shall be located to minimize disruption to the placement of street trees. Adequate planting depth shall be provided between the top of the vault and the finished grade to allow plants to grow in a healthy condition.
- WW. All colors shall match the background of any Wireless Support Structure that the facilities are located upon. In the case of existing wood poles, finishes of conduit shall be zinc, aluminum or stainless steel, or colored to match those metal finishes and equipment cabinets shall be the color of brushed aluminum. Ground mounted equipment cabinets shall be the color of brushed aluminum.
- XX. No lights or other illumination devices other than security lights are permitted on any Small

Cell Facility, unless required by the Federal Communications Commission (“FCC”), the Federal Aviation Administration (“FAA”) or the Town. If security lighting is required, it shall not be permitted to be installed any higher than eighteen (18) feet from grade, unless required by the FCC, FAA, or the Town. Any security lighting must be downshielded to prevent light pollution on adjoining properties. Notwithstanding anything in this Section to the contrary, a Small Cell Facility may be installed on an existing or proposed light pole or other type of pole or structure that incorporates lighting for a purpose other than that related to the Small Cell Facility.

YY. There shall be no advertising or other signage (unless required by federal, state, or local law or regulations) on any portion of a Small Cell Facility except that each installation must be identified by a permanently installed plaque or marker no larger than four by six inches which clearly states the mailing address, email address, and twenty-four hour local or toll-free telephone number for reaching a live contact person for both the Permittee and the agent responsible for the maintenance of the facility. Emergency contact information must be included for immediate response, such information must be updated in the event of a change in Permittee, Operator, or other agent responsible for maintenance of the facility, or both. The owner of the Small Cell Facility shall remove or paint over unnecessary equipment manufacturer decals and shall utilize the smallest and lowest visibility radio-frequency (RF) warning sticker required by government or electric utility regulations, and the sticker should be placed as close to the antenna as possible.

ZZ. In residential areas, new Wireless Support Structures should be located to avoid obstructing the view of building facades by placing the Wireless Support Structure at a corner, intersection or along a lot line. New Wireless Support Structures should be located in the yard location where other overhead utilities are located unless it is not technically feasible to do so. Applicants shall clearly explain the rationale for requests that deviate from this expectation.

SECTION VIII: APPLICATION AND APPLICATION APPROVAL PROCESS

A. Pre-Application Conference. The Town requires pre-application conferences to meet with potential Applicants and discuss projects on a conceptual level. The conference is intended to identify the correct application type and content requirements for any given project, and also to create an informal forum in which Applicants and the Town can discuss any concerns that should be addressed as soon as possible to avoid any unnecessary delays in the processing of an application and issuance of a permit. The requirement for a pre-application conference may be waived by the Town Engineer based on necessity and prior experience with the Applicant.

B. Required Application Materials. Unless otherwise required by state or federal law, the application shall be submitted to the Town Engineer with the applicable fees and all required materials and information in accordance with the requirements of this Design Manual and the Town Code in order for the application to be considered complete. As part of the Application, the Applicant shall specify whether the application is subject to any Federal Communications Commission applications requirements or federal or state law, and if so, identify the law and the applicable requirements. Specifically, the application shall include the following, unless the Town Engineer determines that the provisions are not applicable or required:

- (1) Existing topographic and physical details, including:
 - (a) Paving – Edge of pavement, curb and gutter, driveways, and sidewalks and handicapped ramps;
 - (b) Storm drain systems – inlets, manholes, pipes, outfalls and drainage swales and ditches;
 - (c) Stormwater management facilities – structural and vegetative;
 - (d) Other utility company facilities – poles, fire hydrants, conduits, pipes, vaults, transformers, valves, cleanouts, and associated equipment;
 - (e) Any traffic signal interconnect and fiber optics conduits and associated equipment;
 - (f) Trees and shrubs; and
 - (g) Traffic signals and street lights;
- (2) Existing Rights of Way and easements.
 - (a) Clearly depict all public Right of Way lines; and
 - (b) Clearly depict all public utility easements and all other public and private easements and Rights of Way with the copy of record plat.
- (3) Specify all proposed construction (installation, removal and relocation) and show how the proposed construction satisfies these requirements:
 - (a) Manholes, poles, hand holes, junction boxes, pedestals, street lights, vaults, conduit and pipe;

- (b) New installation and/or relocation of poles shall be outside of sidewalks and ramps and preferably on the Right of Way property line; and
 - (c) Above ground meter panels/boxes and underground meter vault for private use shall be installed on private property.
- (4) Show that the facility or utility that is the subject of the permit has been designed to minimize its intrusiveness upon the neighborhood, through design and concealment elements including size limits, coloration and shielding. As such, the facility or utility is not subject to alteration in a manner that would be inconsistent with the permit, applicable standards, or these regulations except with the discretionary consent of the Town.
- (5) Methods of construction and work type must be indicated:
- (a) Excavation methods: trenching and directional boring, splicing cable through existing underground conduit and visual inspection, etc.;
 - (b) Aerial work such as removing/installing of overhead cable and attaching/detaching equipment on existing pole; and
 - (c) Manhole inspection for the future repairs, as-builts and video inspections.
- (6) Any proposed roadway lane interruptions and sidewalk closures must be specified and must comply with the MUTCD. If the application for a permit is subject to a deadline for approval of the application, the application shall include a MUTCD compliant traffic plan; if the application is not subject to a deadline for approval, the Applicant may develop the traffic plan in coordination with the Town Engineer's office after submission of the application.
- (7) If plans are not prepared by utility company engineers, the plans shall have the certificate of review or approval from the utility company's representatives.
- (8) A description of the effects of the proposed plan on plants and trees in or overhanging the Rights of Way, describing specifically any tree trimming or removal that will be required, and plans for protecting, restoring or replacing the same. No trees are to be trimmed, removed or impacted without specific Town approval.
- (9) A description of the proposed work that will be performed to restore any property that will be affected if the application is granted, and proof that the Applicant has obtained,

or will obtain, the permits that may be required to perform the work; and that the work will be performed in accordance with all applicable standards.

- (10) A confirmation that the Permittee will notify the Town's inspector to schedule inspection of the work, or such portions of the work as may be specified in a permit.
 - (11) The coordination of construction schedules with the Town Engineer's Office is required to prevent conflicts with Town Roadway resurfacing and maintenance programs and public demand to use roadway facilities. All Permittees, Owners and Operators and their contractors are required to schedule construction projects to accommodate anticipated future road work activities.
- C. Fees. The fees associated with the permit request shall be those fees as may be adopted by resolution of the Town Council as part of the Schedule of Fees. The permit fee shall be in addition to, and not in lieu of, any fee, rent, license or franchise fee required to occupy or place facilities on or attached to the Town property, facilities or Right of Way.

SECTION IX: SAFETY REQUIREMENTS, INDEMNIFICATION, INSURANCE, AND BONDING

- A. Prevention of failures and accidents. Any Person who places facilities or utilities in the Right of Way shall at all times employ ordinary and reasonable care and install and maintain in use industry standard technology for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.
- B. Compliance with fire safety and FCC regulations. All facilities, wires, cables, fixtures, and other equipment shall be installed and maintained in substantial compliance with the requirements of the National Electric Code, all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- C. Changes in state or federal standards and regulations. If state or federal standards and regulations are amended, the owners of the facilities or utilities governed by this chapter shall bring any facilities and/or utilities into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the regulating agency. Failure to bring the facilities or utilities into compliance with any revised standards and regulations shall constitute grounds for removal at the owner's expense.
- D. Permittee shall be responsible for any damages or injuries which may occur as a result of construction related to any permit. The Permittee must maintain any work site and facilities thereon in a proper and safe condition.

- E. All earth, materials, sidewalks, paving, crossings, utilities, poles, structures, or other improvements of any kind that are damaged or removed by a Permittee and any Right of Way damaged or disturbed by Permittee shall be fully repaired, replaced or restored promptly by the Permittee, as part of the completion of any work under the permit, at Permittee's sole cost and expense and to the satisfaction of the Town, and in accordance with the Town's standards for repair, replacement or restoration. Except as specifically otherwise required, property damaged or removed, must be restored or replaced to its prior condition and location, and Rights of Way must be restored to their prior conditions.
- F. If a Permittee fails to maintain a site in safe condition or fails to promptly remove, replace, repair or restore as required by these regulations, the Town may, after providing fifteen (15) days' notice, and unless Permittee takes steps satisfactory to the Town to correct the deficiency, make such removal, repair, restoration or replacement at the Permittee's cost. Provided that, upon determination by the Town that Permittee's acts or omissions create an immediate risk to persons or property, or in the event of an emergency, the Town may make such repair or replacement at the Permittee's cost without notice.
- G. Indemnification. Any Operator who owns or operates facilities or utilities in the public road, public right-of-way or public utility easement shall indemnify, protect, defend, and hold the Town and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the Operator who owns or operates facilities or utilities in the public road, public right-of-way or public utility easement, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities or utilities in the public road, public right-of-way or public utility easement.
- H. Insurance. Operator and Permittee shall have, at its own cost and expense, commercial general liability insurance and business automobile liability (owned, non-owned and hired auto) insurance in effect naming the Town as an additional insured in an amount not less than Two Million Dollars (\$2,000,000) per occurrence (combined single limit) covering bodily injury, death and property damage, including contractual liability, personal injury and products-completed operations. The policy or policies providing such insurance shall be issued by a company or companies duly permitted to do business in the State of Maryland and carrying an AM Best's rating acceptable to the Town. The Operator and Permittee shall provide the Town a certificate or certificates of insurance evidencing all coverage required

under these regulations prior to undertaking or causing anyone to undertake any work on its behalf. If the Permittee and the Operator are not identical, then each must have insurance in the amounts specified herein and meeting these requirements. The Permittee (if not identical to the Operator) shall maintain insurance in force until completion of the work for which a permit was issued (and any guarantee or maintenance period). Operator shall continuously maintain in force an insurance policy meeting the requirements herein until completion of removal of the facilities or utilities from over, under or on the Town's Right of Way to the extent such removal is required by these regulations and until restoration (and any guarantee and maintenance period) are completed. Each insurance policy required shall contain an endorsement that the Town shall receive at least thirty (30) days written advance notice before any cancellation except in the event of nonpayment, in which case the Town shall receive ten (10) days in advance of cancellation. Within ten (10) days after receipt of any such notice, the insured shall obtain and furnish to the Town a replacement insurance policy satisfying the standards herein. The insurance coverage required herein may be satisfied by blanket and/or umbrella policies so long as the policies satisfy the standards herein. The liability of the insured to the Town or any other person shall not be limited by said insurance policy or policies nor by the recovery of any amounts thereunder.

- I. Surety bond or equivalent financial tool for cost of removal. All owners must procure and provide to the Town a bond, or must provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this Chapter in an amount as set by the Town Engineer. The bond must be maintained for as long as the owner has facilities or utilities in the public road, public right-of-way or public utility easement. The bond or equivalent financial method must specifically cover the cost of removal of unused or Abandoned facilities or utilities or damage to Town property caused by an Operator or its agent of each facility or utility in case the Town has to remove or pay for its removal. Two acceptable alternatives to a bond include a cash deposit and a letter of credit.
- J. Generally Applicable Health and Safety Regulations. All facilities or utilities in the public road, public right-of-way or public utility easement shall be designed, constructed, operated and maintained in compliance with all generally applicable federal, state, and local health and safety regulations, including without limitation all applicable regulations for human exposure to RF Emissions & Engineering.

SECTION X: LIABILITY AND SIGNAL INTERFERENCE

- A. No Liability. The Town shall not be liable to the Operator by reason of inconvenience, annoyance or injury to the facilities or utilities whether ground or pole-mounted equipment or activities conducted by the Operator therefrom, arising from the necessity of repairing any portion of the Right of Way, or from the making of any necessary alteration or

improvements, in or to, any portion of the Right of Way, or in, or to, the Town's fixtures, appurtenances or equipment.

- B. Signal Interference Prohibited. In the event that an Operator's facility or utility interferes with the public safety radio system, or the Town or State of Maryland's traffic signal system, then the Operator shall, at its cost, immediately cooperate with the Town to either rule out Operator as the interference source or eliminate the interference. Cooperation with the Town may include, but shall not be limited to, temporarily switching the transmission equipment on and off for testing.

SECTION XI: REQUIREMENTS FOR REMOVAL, REPLACEMENT, MAINTENANCE AND REPAIR

- A. These requirements apply to the relocation and removal or disconnection of utilities or facilities except to the extent that Maryland law specifically requires different treatment of particular facilities.
- B. Replacement of Municipal-Owned Wireless Support Structure.
- (1) When necessary to accommodate a facility or utility, the Town may require, in response to an application, to Collocate a facility or utility on a Town-owned Wireless Support Structure, the replacement or modification of the Wireless Support Structure at the Operator's cost if the Town determines that replacement or modification is necessary for compliance with construction and safety standards. Such replacement or modification shall conform to the Design Manual. The Town may retain ownership of the replacement or modified Wireless Support Structure.
 - (2) Accommodation of reservation of space for future public safety or transportation uses. If the Town has reserved space for future public safety or transportation uses on the Town-owned Wireless Support Structure, the replacement or modification must accommodate the future use.
- C. Removal or Relocation Required for Town Project.
- (1) Operator shall remove and relocate the permitted facility, utility and/or Wireless Support Structure at the Operator's sole expense to accommodate construction of a public improvement project by the Town, including but not limited to construction, operation, maintenance, repair, removal or relocation of Town improvements, Town utilities, Town transportation systems, sidewalk widening, or other public projects.

- (2) If the grades or lines of any Town Right of Way change at any time in a manner affecting the facilities or utilities, then upon notice the Operator shall be responsible, at its cost, to protect, alter, remove or relocate the facilities or utilities within a reasonable time, which time may be specified by the Town, so as to conform with such new grades or lines.
- (3) If Operator fails to remove or relocate the facility, utility, and/or Wireless Support Structure or portion thereof as requested by the Town within 120 days of the Town's notice, then the Town shall be entitled to remove the facility, utility and/or Wireless Support Structure, or portion thereof at Operator's sole cost and expense, without further notice to Operator.
- (4) Operator shall, within 30 days following issuance of invoice for the same, reimburse the Town for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the facility, utility and/or Wireless Support Structure, or portion thereof.

D. Removal Required by Town for Safety and Imminent Danger Reasons.

- (1) Operator shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable facility, utility and/or Wireless Support Structure within the time frame and in the manner required by the Town if the Town reasonably determines that the disconnection, removal, or relocation of any part of a facility, utility and/or Wireless Support Structure (a) is necessary to protect the public health, safety, welfare, or Town property, or (b) Operator fails to obtain all applicable licenses, permits, and certifications required by law for its facility, utility and/or Wireless Support Structure.
- (2) If the Town Engineer reasonably determines that there is imminent danger to the public, then the Town may immediately disconnect, remove, or relocate the applicable facility, utility and/or Wireless Support Structure at the Operator's sole cost and expense.

E. Removal/Abandonment of Facilities.

- (1) Operator shall remove facilities, utilities and/or Wireless Support Structures when such facilities are Abandoned regardless of whether or not it receives notice from the Town. Unless the Town sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 60 days of the facility, utility and/or Wireless Support Structure being Abandoned, or within 60 days of receipt of written notice from the Town. When Operator abandons permanent structures in the Right of Way, the Operator shall notify the Town in writing of such abandonment and shall file with the Town the location and description of each

facility, utility and/or Wireless Support Structure Abandoned. Prior to removal, Operator must make application to the Town and receive approval for such removal. Operator must obtain a Right of Way work permit for the removal. The Town may require the Operator to complete additional remedial measures necessary for public safety and the integrity of the public road, public right-of-way or public utility easement.

- (2) The Town may, at its option, allow a Wireless Support Structure to remain in the Right of Way and coordinate with the owner to transfer ownership of such Wireless Support Structure to the Town, instead of requiring the owner and/or Operator to remove such Wireless Support Structure.
- (3) Restoration. Operator shall repair any damage to the Right of Way, any facilities located within the Right of Way, and/or the property of any third party resulting from Operator's removal or relocation activities (or any other of Operator's activities hereunder) within ten (10) calendar days following the date of such removal or relocation, at Operator's sole cost and expense. Restoration of the Right of Way and such property must be to substantially the same condition as it was immediately before the date Operator was granted a permit for the applicable location, or did the work at such location (even if Operator did not first obtain a permit). This includes restoration or replacement of any damaged trees, shrubs, or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the Town.

F. Duty to Move for Others

- (1) The Operator shall, upon written notice by the Town or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move facilities or utilities to permit the moving of said structure. The Operator may require payment of the actual reasonable costs to move its facilities or utilities from any person other than a governmental entity for any such movement of its facilities or utilities, which Operator may require be payable in full prior to any such movement.
- (2) The Operator may be required to move its facilities or utilities to accommodate the use of the Rights of Way by other persons authorized to occupy the Rights of Way by Town. Upon the appropriate request of any person having satisfied Town procedure and ordinances, the Operator shall promptly relocate its facilities or utilities to permit such use. The cost of the same shall be borne in accordance with applicable laws, tariffs, and contracts that may govern the shared use of the Rights of Way; provided that, except as required by law, an Operator may not charge a third party for work required to bring its facilities or utilities into compliance with applicable standards, or for work where the Operator's facilities or utilities are not authorized to be in place. These provisions are not

intended to provide any entity a right to attach to a structure owned by someone else without that entity's permission.

- (3) The Town may revoke permits, or refuse to issue permits to any Operator who unreasonably fails to move its facilities or utilities in accordance with this section.
- G. The fee, liability insurance and indemnity provision of these regulations shall remain in full force and effect during the entire period of removal and associated repair of all Rights of Way and other property and equipment of the Town, and for not less than one hundred twenty (120) days after the restoration period and any guarantee and maintenance period associated with restoration of the Rights of Way.

SECTION X: GENERAL PROVISIONS

- A. **Tree Maintenance.** Except as otherwise provided by law, Operator, its contractors, and agents shall obtain written permission from the Town before trimming trees in the Right of Way hanging over its facility or utility to prevent branches of such trees from contacting its facilities or utilities. When trimming such trees on private property, the operator, its contractors, and agents shall notify the Town and obtain written permission from the property owner. When directed by the Town, operator shall trim under the supervision and direction of the Town. The Town shall not be liable for any damages, injuries, or claims arising from operator's actions under this section.
- B. **Graffiti Abatement.** As soon as practical, but not later than fourteen (14) calendar days from the date operator receives notice thereof, operator shall remove all graffiti on any of its Small Cell Facilities and/or Wireless Support Structures located in the Right of Way. The Town may agree to an extension of time for abatement when necessitated by the need to order replacement equipment when such equipment is ordered in a timely manner.
- C. **Minor Technical Exceptions.** The Town recognizes that in some circumstances strict compliance with these guidelines may result in undesirable aesthetic outcomes and that minor deviations may be granted by the Town Engineer when the need for such deviation arises from circumstances outside the Applicant's control.
- D. **Waivers of requirements** have the effect of prohibiting the provision of wireless service to a location. In the event that any Applicant asserts that strict compliance with any provision in these guidelines, as applied to a specific proposed Small Cell Facility, would effectively prohibit the provision of personal wireless services, the Town Engineer may grant a limited, one-time waiver from strict compliance.