

**Draft 7/19/18**

**MODEL CODE FOR MUNICIPALITIES**  
**Federal Communications Commission Broadband**  
**Deployment Advisory Committee Model Code for**  
**Municipalities Working Group**

**NOTE: SEE APPENDIX A FOR IMPORTANT DRAFTERS' EXPLANATION.**

**NOTE: WHEN CONSIDERING ADOPTION OF THIS MODEL CODE, LOCAL GOVERNMENTS SHOULD CONSIDER THAT THERE MAY BE FEDERAL, STATE OR LOCAL LAWS THAT COULD LIMIT OR OTHERWISE AFFECT VARIOUS TERMS AND PROVISIONS SET FORTH HEREIN. CIRCUMSTANCES OF EACH LOCAL GOVERNMENT MAY REQUIRE MODIFICATIONS OF THIS MODEL CODE AND LEGAL REVIEW IS STRONGLY ADVISED PRIOR TO ADOPTION.**

## **TABLE OF CONTENTS**

	<u>Page</u>
Article I. Short Title and Definitions.....	1
Section 1.1 Short Title.....	1
Section 1.2 Definitions.....	1
Article II. Governance of Deployment in the Public ROW .....	7
Section 2.1 General Provisions of Agreement for Access to Public ROW.....	7
Section 2.2 Permitted Communications Facility Uses/Administrative Review; Application.....	9
Section 2.3 Action on Administrative Review Applications .....	10
Section 2.4 Applications Requiring Discretionary Review and Approval.....	16
Section 2.5 Other Public ROW Installation Requirements.....	16
Section 2.6 Attachment to and Replacement of Decorative Poles.....	21
Section 2.7 Batch Applications.....	21
Article III. Governance of Deployment Outside the Public ROW .....	21
Section 3.1 Permitted Communications Facility Uses Administrative Review; Application and Fees .....	22
Section 3.2 Action on Administrative Review Application .....	24
Section 3.3 Eligible Facilities Requests.....	25
Section 3.4 Applications Requiring Discretionary Review and Approval.....	25
Section 3.5 Temporary and Emergency Installations.....	26
Section 3.6 Design Standards.....	26
Section 3.7 “DIG ONCE” REQUIREMENTS .....	28
Section 3.8 Violation of this Chapter .....	29
Section 3.9 Exceptions to Applicability of this Chapter .....	29
Section 3.10 Effective Date.....	29
APPENDIX A Drafters’ Explanation	
APPENDIX A-1 Municipal Policies to Promote Digital Inclusion	
APPENDIX B Public Right of Way Utility Application For Wireline Only Installations	
APPENDIX C Small Wireless Facilities	
APPENDIX D Sample Underground Construction Provisions	

## **Article I. Short Title and Definitions**

### **Section 1.1 Short Title.**

This Chapter is titled the “Streamlining Broadband Deployment Ordinance,” and amends all applicable provisions of the [city/town/etc charter/code] and existing local laws relating to the subject matter of this Chapter.

### **Section 1.2 Definitions.**

- a. **“Administrative Review”** means ministerial review of an Application by the Authority relating to the review and issuance of a Permit, including review by the [building, planning or zoning administrator, or other [City] staff or designee] to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Chapter. This process does not involve the exercise of discretion. Either the issuance of a Permit is in conformity with the applicable provisions of this Chapter or it is not. This process is not subject to a public hearing.
- b. **“Antenna”** means communications equipment that transmits and/or receives over-the-air electromagnetic signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes..
- c. **“Applicable Codes”** means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Authority or otherwise are applicable in the jurisdiction.
- d. **“Applicant”** means a Person who submits an Application under this Model Code.
- e. **“Application”** means a written request submitted by an Applicant (such as the form annexed hereto as **Appendix B**) to an Authority for a Permit (i) to locate or Collocate, or to modify, a Communications Facility underground or on any existing Support Structure, Pole, or Tower, or (ii) to construct, modify or Replace a new Support Structure, Pole or Tower or any other structure on which a Communications Facility will be Collocated.
- f. **“Authority”** means the [city/town/etc of \_\_\_\_\_] or any agency, county, municipality, district, subdivision or any instrumentality thereof, including, but not limited to public utility districts, or municipal electric utilities. The term shall not include courts of the State having jurisdiction over an Authority or any entities that do not have zoning or permitting authority jurisdiction..
- g. **“Authority Pole”** means a Pole owned, managed or operated by or on behalf of an Authority.
- h. **“Collocate”** means to install, mount, maintain, modify, operate and/or replace a Communications Facility on an existing Support Structure, Pole, or Tower or any other structure capable of supporting such Communications Facility. “Collocation” has a corresponding meaning. The term does not include the installation of a new Utility Pole, Tower or Support Structure in the Public Right-of-Way.

- i. **“Communications Facility”** means, collectively, the equipment at a fixed location or locations that enables communication between user equipment and a communications network, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.
- j. **“Communications Service Provider”** means a cable operator, as defined in 47 U.S.C. § 522(5), a provider of information service, as defined in 47 U.S.C. § 153(24); or a provider of telecommunications service, as defined in 47 U.S.C. § 153(53); or provider of fixed wireless or other wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i).
- k. **“Decorative Pole”** means an Authority Pole that is specially designed and placed for aesthetic purposes.
- l. **“Deployable”** means a portable, self-contained Wireless Facility that can be moved to a specified location or area and provide Wireless Services on a temporary or emergency basis such as a “cell on wheels” or “COW,” “cell on light truck” or “COLT,” tethered balloon, tethered drone or other unmanned device.
- m. **“Discretionary Review”** means review of an Application by the Authority relating to the review and issuance of a Permit, that is other than an Administrative Review. Discretionary Review involves discretion on the part of the Authority (subject to any applicable limits on such discretion) in determining whether to issue a Permit and may be subject to one or more public hearings or meetings.
- n. **“Eligible Facilities Request”** means an eligible facilities request as set forth in 47 C.F.R. Section 1.40001(b)(3), as may be amended from time to time.
- o. **“FCC”** means the Federal Communications Commission of the United States.
- p. **“Fee”** means a one-time, nonrecurring charge, whether a fixed amount or cost-based amount based on time and expense.
- q. **“Historic Property”** means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the United States Secretary of the Interior (in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C) or established pursuant to state historic preservation law.
- r. **“Laws”** means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.
- s. **“Ordinary Maintenance, Repair and Replacement”** means (i) with respect to a Communications Facility and/or the associated Support Structure, Pole or Tower, inspections, testing, repair and modifications that maintain functional capacity, aesthetic and structural integrity, and (ii) with respect to a Communications Facility only, the replacement or upgrade of Antennas and/or other components of the

Communications Facility (specifically, such as a swap out or addition of 5G Antennas and radio equipment as required by the Applicant), with Antennas and/or other components substantially similar, in color, aggregate size and other aesthetics to that previously permitted by the Authority (and/or consistent with the same height and volume limits for Wireless facilities under this Chapter), so long as the Support Structure, Pole, or Tower will structurally support, or prior to installation will be modified to support, the structural load. Modifications are limited to by the structural load analysis supplied by the Applicant to the Authority, and by the volume limits in Subsection 1.2(bb). Modifications beyond the foregoing must be requested in writing by the Applicant and are subject to discretionary approval by the Authority.

- t. **“Permit”** means a written authorization (in electronic or hard copy format) required by an Authority to initiate, continue, or complete installation of a Communications Facility, or an associated Support Structure, Pole, or Tower.
- u. **“Person”** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an Authority.
- v. **“Pole”** means a pole, such as a utility, lighting, traffic, or similar pole, made of wood, concrete, metal or other material, located or to be located within the Public Right of Way or Utility Easement. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached unless an Authority grants a waiver for such pole. The term does not include electric transmission poles or structures. A Pole does not include a Tower or Support Structure.
- w. **“Utility Easement”** means the area on, below, or above privately-owned property that has been designated for use as or is used for a specific utility purpose (such as for electric, cable or other utility purpose), and is evidenced by a recorded instrument in the public land records pursuant to a recorded plat, easement or right of way or is otherwise a legally enforceable easement, and does not include any portion of a Public Right of Way.
- x. **“Provider”** means a Communications Service Provider or a Wireless Provider.
- y. **“Public Right of Way” or “Public ROW”** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, but not including a federal interstate highway or other area not within the legal jurisdiction, or within the legal ownership or control of the municipality.
- z. **“Rate”** means a recurring charge.
- aa. **“Replace” or “Replacement”** means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, similar in design, size and scale to the existing structure and in conformance with current [City charter/code regulations], in order to address limitations of, or change requirements applicable to, the existing structure to structurally support Collocation of a Communications Facility. In connection with replacement of a Pole or Tower to support Collocation of a Wireless Facility,

similarity in size and scale shall be evaluated consistent with 47 C.F.R. 1.40001 Subpart b(7).

- bb. **“Small Wireless Facility”** means a Wireless Facility that meets both of the following qualifications: (i) each Wireless Provider’s Antenna (including, without limitation, any strand-mounted Antenna) could fit within an enclosure of no more than\_( ) cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than\_\_\_\_\_ ( ) cubic feet in volume. The following types of associated, ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services. [See **APPENDIX C** for example of Small Wireless Facilities, including “traditional” small cells, fixed wireless and other types.]
- cc. **“State”** means the [State/Commonwealth] of\_\_\_\_\_.
- dd. **“Support Structure”** means a building, a billboard, a water tank or any other structure to which a Communications Facility is or may be attached. Support Structure does not include a Pole or a Tower.
- ee. **“Tower”** means any structure built for the sole or primary purpose of supporting a Wireless Facility, such as a self-supporting Tower, a monopole, a lattice Tower or a guyed Tower. Tower also includes a structure designed to conceal from the general public the Wireless Facility. A Tower does not include a Pole or a Support Structure.
- ff. **“Wireless Facility”** means a Communications Facility installed and/or operated by a Wireless Provider. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one example of a Wireless Facility.
- gg. **“Wireless Infrastructure Provider”** means any Person, including a Person authorized to provide telecommunications service in the State, that builds or installs and/or operates Wireless Facilities or Poles, Towers or Support Structures on which Wireless Facilities are or are intended to be used for Collocation, but that is not a Wireless Services Provider.
- hh. **“Wireless Provider”** means a Wireless Infrastructure Provider or a Wireless Services Provider.
- ii. **“Wireless Services”** means any wireless services including, without limitation, personal wireless services as that term is defined in 47 U.S.C. § 332(c)(7)(C)(i), fixed wireless and other wireless services.
- jj. **“Wireless Services Provider”** means a Person who provides Wireless Services.

## Article II. Governance of Deployment in the Public ROW

### Section 2.1 General Provisions of Agreement for Access to Public ROW

- a. [ADD FOLLOWING PROVISION REQUIRING MUNI AGREEMENT ONLY IF REQUIRED BY THE AUTHORITY FOR ALL OCCUPANTS DESIRING TO INSTALL COMMUNICATIONS FACILITIES IN THE PUBLIC ROW, INCLUDING ON AUTHORITY POLES OR OTHER STRUCTURES IN THE PUBLIC ROW - Municipal Agreement. Prior to receiving a Permit to install a Communications Facility in the Public ROW, each Applicant shall be required to enter into a Municipal Agreement (e.g., Right of Way Agreement, Pole Attachment Agreement, License Agreement) between the Authority and the Applicant, on terms and conditions substantially the same for all Applicants and existing occupants of the Public ROW. The terms and conditions of such Municipal Agreement will include the following:]

[NOTE - IF NO MUNI AGREEMENT REQUIRED, THEN CONVERT SUBSECTION 2.1(a) HEADING TO “**FEES AND RATES**” AND ADD TEXT AFTER THE HEADING AS FOLLOWS - **AS A CONDITION TO THE EFFECTIVENESS OF A PERMIT TO INSTALL A COMMUNICATIONS FACILITY IN THE PUBLIC ROW, THE APPLICANT SHALL PAY THE FOLLOWING FEES AND RATES, AS MORE PARTICULARLY SET FORTH IN THIS CHAPTER:**]

[TBD - FOLLOWING ARE EXAMPLES ONLY OF POTENTIAL FEES AND RATES]<sup>1</sup>

- (i) Fees and Rates. The Applicant will pay the following Fees and Rates:
- (A) **Application Fee**, equal to [\$ ] for a single Permit, and [\$ ] for multiple Permits of up to [YYY] number of similar Applications submitted simultaneously by a Wireless Provider or any other Communications Service Provider to an Authority shall be paid upon submission of the Application.
  - (B) **Make-Ready Fee**, determined on a site-specific, engineering basis, for work reasonably necessary to make a particular Authority Pole suitable for attachment of the applicable Communications Facility shall be paid upon submission of the Application as more particularly described in Subsection 2.3(f) below.
  - (C) **Annual ROW or Occupancy Rate**, for non-exclusive occupancy of the Public ROW by the Applicant, [based on/equal to - insert the [\$ ] amount of such Rate per installation or, alternatively, how

---

<sup>1</sup> 1THE INTENT OF THIS SUBSECTION 2.1(a)(i) IS TO IDENTIFY CLEARLY ALL FEES AND RATES THAT ARE APPLICABLE TO ANY INSTALLATION OF A COMMUNICATIONS FACILITY. AS OF THE DATE OF THIS MODEL CODE, THE WORKING GROUP IS NOT RECOMMENDING FURTHER SPECIFICS REGARDING AMOUNTS OR FORMULAS FOR VARIOUS FEES AND RATES SINCE AN ANALYSIS OF SAME IS BEING BY THE BDAC “FEES AND RATES AD HOC WORKING GROUP.”

such rate is calculated] shall be paid within thirty (30) days of issuance of the applicable Permit(s) and annually thereafter.

- (D) **Annual Attachment Rate**, equal to [\$ ] for attachment to an Authority Pole in the amount shall be paid within thirty (30) days of issuance of the applicable Permit(s) and annually thereafter.
- (E) **Generally Applicable, Non-discriminatory Fees**, such as those required for electrical Permits, building Permits, or street opening Permits, shall be paid by Applicant as required in the applicable provisions of the [The city/town/etc charter/code].
- (F) An Applicant shall not be subject to any municipal Fees or Rates, other than those expressly cited above or as may be otherwise negotiated between an Applicant and the Authority or required pursuant to [cite to specific section of city/town/etc charter/code].
- (G) The Applicant, or person who owns or operates the Communications Facility installed in the Public ROW (including, without limitation, on an Authority Pole) may remove its facilities at any time from the Public ROW, upon not less than thirty (30) days prior written notice to the Authority and may cease paying to the Authority any applicable Fees and Rates for such use, as of the date of actual removal of the facilities.

b. [THE FOLLOWING SUBSECTION “b” TO BE ADDED ONLY IF MUNICIPAL AGREEMENT IS REQUIRED AS DESCRIBED IN SUBSECTION “a” ABOVE -- Other Terms.

- (i) Term length, including renewals and extensions [NOTE, Applicants typically seek a minimum term of 10 years, plus renewals].
- (ii) Specific design requirements (see Subsection 2.5(b)(ii) below).
- (iii) Safety requirements including those under ADA, OSHA and similar Laws.
- (iv) Indemnification and insurance requirements.
- (v) Termination rights of both parties.
- (vi) Removal, relocation and abandonment (see Section 2.5 below).
- (vii) Emergency notifications.
- (viii) Assignment and sublicensing.
- (ix) Employment.

c. Applications must be processed on a nondiscriminatory basis.

## **Section 2.2 Permitted Communications Facility Uses/Administrative Review; Application**

- a. Permitted Use. The following uses within the Public ROW shall be a permitted use, subject to Administrative Review only and issuance of a Permit as set forth in this Section 2.2. All such uses shall be in accordance with all other applicable provisions of this Chapter, including without limitation, those set forth in Section 2.5 below:
- (i) Collocation of a Small Wireless Facility or a Collocation that qualifies as an Eligible Facilities Request;
  - (ii) Modification of a Pole, Tower or Support Structure or Replacement of a Pole, for Collocation of a Communications Facility that qualifies as an Eligible Facilities Request or involves a Small Wireless Facility that does not exceed the maximum limitations set forth in Subsection 2.3(c)(i)(A)(i) below. All other such modifications or Replacements are subject to Discretionary Review under [**cite to Discretionary zoning, land use or similar provisions in Code/Charter**].
  - (iii) Construction of a new Pole or a monopole Tower (but no other type of Tower) to be used for Collocation of a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 2.3(c)(i)(A)(1) below; and
  - (iv) Construction of a Communications Facility, other than those set forth in subparagraphs (i), (ii) or (iii) in this Subsection 2.2(a), involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more Poles or a Pole and a Tower and/or Support Structure, and related equipment and appurtenances.
- b. Permit Required. No Person shall place any facility described in Subsection 2.2(a) above in the Public ROW without first filing an Application for same and obtaining a Permit therefor, except as otherwise expressly provided in this Chapter.
- c. Proprietary or Confidential Information in Application. The Authority shall make accepted Applications publicly available. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the Authority shall treat the information as proprietary and confidential, subject to applicable State and local “freedom of information” or “sunshine” Laws and the Authority’s determination that the Applicant’s request for confidential or proprietary treatment of an Application material is reasonable.
- d. Administrative Review Application Requirements. The Application shall be made by the applicable Provider or its duly authorized representative and shall contain the following:

- (i) The Applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.
  - (ii) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.
  - (iii) A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.
  - (iv) Detailed construction drawings regarding the proposed facility [ADD CROSS REFERENCE TO OTHER EXISTING CODE PROVISIONS THAT PROVIDE SPECIFIC REQUIREMENTS FOR DRAWINGS].
  - (v) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a [duly licensed engineer] evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.
  - (vi) For any new aboveground facilities, visual depictions or representations if not included in the construction drawings.
- e. Ordinary Maintenance, Repair and Replacement. An Application shall not be required for Ordinary Maintenance, Repair and Replacement, other than to the extent required for Permits described in Subsection 2.5(b)(iii) below.
  - f. Information Updates. Any material change to information contained in an Application shall be submitted in writing to the [City] within thirty (30) days after the change necessitating the change.
  - g. Application Fees. Unless otherwise provided by applicable Laws, all Applications pursuant to this Chapter shall be accompanied by the Fees required under Subsection 2.1(a) above.

### **Section 2.3 Action on Administrative Review Applications**

- a. Review of Applications for Administrative Review.
  - (i) The [City] shall review the Application in light of its conformity with applicable provisions of this Chapter, and shall issue a Permit on nondiscriminatory terms and conditions, subject to the following requirements:
    - (A) Within twenty (20) days of receiving an Application, the [City] must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the [City] must

specifically identify the missing information, and may toll the approval interval in Subsection 2.3(a)(i)(B) below. The Applicant may resubmit the completed Application within twenty (20) days without additional charge, and the subsequent review will be limited to the specifically identified missing information subsequently completed, except to the extent material changes to the proposed facility have been made by the Applicant (other than those requested or required by the Authority) in which case a new Application and Application Fee for same must be submitted; and

(B) The [City] must make its final decision to approve or deny the Application within sixty (60) days for a collocation, and ninety (90) days for any new structure, after the Application is complete (or deemed complete);

(C) The [City] must advise the Applicant in writing of its final decision, and in the final decision document the basis for a denial, including specific code provisions and/or regulations on which the denial was based. A decision to deny an application shall be in writing and supported by substantial evidence contained in a written record, publicly released, and sent to the applicant. The written decision, supported by such substantial evidence, shall constitute final action by [City]. The review period or “shot clock” shall run until the written decision, supported by substantial evidence, is released and sent to the Applicant contemporaneously. The Applicant may cure the deficiencies identified by the [City] and resubmit the Application within 30 days of the denial without paying an additional Application Fee unless denial was issued due to non-compliance with Design Guidelines or other requirements under this Article II (in which case a new Application Fee must be paid). The [City] shall approve or deny the revised Application within thirty (30) days of receipt of the revised Application. The subsequent review by the [City] shall be limited to the deficiencies cited in the original denial and any material changes to the Application made to cure any identified deficiencies.

(ii) If the [City] fails to act on an Application within the review period referenced in Subsection 2.3(a)(i)(B), the Applicant may provide the [City] written notice that the time period for acting has lapsed, and the [City] then has twenty (20) days after receipt of such notice within which to render its written decision, failing which the Application is then deemed approved by passage of time and operation of law. Applicant shall provide notice to the [City] at least seven (7) days prior to beginning construction or collocation pursuant to a Permit issued pursuant to a deemed approved Application, and such notice shall not be construed as an additional opportunity for objection by the [City] or other entity to the deployment.

(iii) An Applicant seeking to construct, modify or replace a network of Communications Facilities may, at the Applicant’s discretion and subject to the Authority’s batch Application requirements and process under Section 2.7 below, file a consolidated Application and receive a single Permit for multiple Communications Facilities, or multiple Permits. The Authority’s

denial of any site or sites within a consolidated Application shall not affect other sites submitted in the same Application. The Authority shall grant a Permit(s) for any and all sites in a consolidated Application that it does not otherwise deny, subject to the requirements of this Section.

- b. Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the Authority shall approve within sixty (60) days and may not deny Applications for Eligible Facilities Requests according to the procedures established under 47 C.F.R. 1.40001(c).
- c. Small Wireless Facilities; Maximum Height; Other Requirements.
  - (i) Maximum Size of Permitted Use. Small Wireless Facilities, and new, modified or Replacement Poles, Towers and Support Structures (subject to the further limitation for Replacement of Support Structures described in Subsection 1.2(aa) above) to be used for Collocation of Small Wireless Facilities may be placed in the Public Right of Way as a permitted use in accordance with this Subsection 2.2, subject to the following requirements:
    - (A) Each new, modified or Replacement Pole, Tower or Support Structure installed in the Public ROW shall not exceed **[the greater of:**
      - 1. **Five (5) feet above the tallest existing Pole, Tower or Support Structure not exceeding 50 feet in the Public ROW, in place as of the effective date of this Chapter, and located within 500 feet of the new proposed Pole, Support Structure; or ten (10') feet on utility distribution poles where required by the electrical utility separation requirements; or**
      - 2. **]Fifty (50) feet above ground level.**
    - (B) Each modified or Replacement Pole, Tower, or Support Structure installed in the Public ROW shall not exceed **[the greater of:**
      - 1. **five (5) feet above the height of the structure being modified or replaced in place as of the effective date of this Chapter; or ten (10) feet on utility distribution poles where required by the electrical utility separation requirements; or**
      - 2. **]the height limit under Subsection 2.3(c)(i)(A).**
- d. Discretionary Review Requirements. Unless an Applicant seeks to install a Communications Facility that conforms to the specific uses and size and height limitations set forth in Subsection 2.2(a) above (or involves Ordinary Maintenance, Repair and Replacement), the Application shall be subject to the [Discretionary

---

<sup>2</sup> BOLDED TEXT IN THIS SUBSECTION (c) IS AN OPTION FOR LOCAL GOVERNMENTS THAT WANT TO ENCOURAGE COLLOCATION ON EXISTING POLES THAT MAY OTHERWISE NOT BE ABLE TO ACCOMMODATE COLLOCATION WITHOUT EXTENDING THE HEIGHT OF THE EXISTING POLE.

Review - e.g., zoning/land use - requirements set forth elsewhere in the City charter/code] applicable to construction and placement of such facilities.

- e. Undergrounding Provisions. The Authority shall administer undergrounding provisions in a non-discriminatory manner. It shall be the objective of the Authority and all Public ROW occupants to minimize disruption or discontinuance of service of all kinds to consumers, through mutual obligation to coordinate and timely complete such projects.

An occupant shall comply with nondiscriminatory Authority undergrounding requirements that 1) are in place and published prior to the date of initial filing of the Application, and 2) prohibit electric, telecommunications and cable providers from installing above-ground horizontal cables, Poles, or equivalent vertical structures in the Public ROW; and the Authority may require the removal of overhead cable and subsequently unused Poles. In areas where existing aerial utilities are being moved underground, Wireless Providers shall retain the right to remain in place, under their existing authorization, by buying out the ownership of the Pole(s), subject to the concurrence of the Pole owner and consent of the Authority (which consent may not be unreasonably withheld, conditioned or delayed) or, alternatively, the Wireless Provider may reasonably replace the existing Pole(s) or vertical structure locations for Antennas and accessory equipment, as a permitted use, within 50 feet of the prior location, unless a minimally greater distance is necessary for compelling public welfare.

In neighborhoods or areas with existing underground utilities that do not have Small Wireless Facilities deployed as a permitted use, a new entrant Wireless Provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved Permit, the Applicant shall be entitled to place Poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures in the neighboring underground utility area.

In neighborhoods or areas with existing underground utilities that do have Small Wireless Facilities deployed as a permitted use, a new entrant Wireless Provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved Permit, the Applicant shall be entitled to place Poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures of Wireless Providers in the neighboring underground utility area.

In neighborhoods with underground utilities, whether being converted from overhead utilities or initially underground, microwireless devices, typically strand-mounted, shall be treated like other Small Wireless Facilities in the Public ROW, requiring permitted use status, and subject to non-recurring and recurring Fees and Rates.

f. Effect of Permit.

- (i) Authority Granted; No Property Right or Other Interest Created. A Permit from the [City] authorizes an Applicant to undertake only certain activities in accordance with this Chapter, and does not create a property right or grant authority to the Applicant to impinge upon the rights of others who may already have an interest in the Public ROW.
- (ii) Duration. Any Permit for construction issued under this Article II shall be valid for a period of six (6) months after issuance, provided that the six month period shall be extended for up to an additional 6 months upon written request of the Applicant (made prior to the end of the initial 6 month period) if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the Applicant.

g. Removal, Relocation or Modification of a Communications Facility in the ROW.

- (i) Notice. Within ninety (90) days following written notice from the [City], a Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Communications Facility within the Public ROW whenever the [City] has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any [City] improvement in or upon, or the operations of the [City] in or upon, the Public ROW. The [City] shall apply the same standards to all utilities in the Public ROW.
- (ii) Emergency Removal or Relocation of Facilities. The [City] retains the right and privilege to cut power to or move any Communications Facility located within the Public ROW of the [City], as the [City] may determine to be necessary, appropriate or useful in response to any public welfare emergency, or safety emergency. If circumstances permit, the [City] shall notify the Provider and provide the Provider an opportunity to move its own facilities prior to cutting power to or removing the Communications Facility and in all cases shall notify the Provider after cutting power to or removing the Communications Facility as promptly as reasonably possible.
- (iii) Abandonment of Facilities. A Provider is required to notify the Authority of abandonment of any Communications Facility at the time the decision to abandon is made, however, in no case shall such notification be made later than 30 days prior to abandonment. Following receipt of such notice, the [City] shall direct the Provider to remove all or any portion of the Communications Facility if the [City] determines that such removal will be in the best interest of the public safety and public welfare. If the Provider fails to remove the abandoned facility within sixty (60) days after such notice, the [City] may undertake to do so and recover the actual and reasonable expenses of doing so from the Provider, its successors and/or assigns.
- (iv) Structural reconditioning, repair and replacement. From time to time, the Authority may paint, recondition, or otherwise improve or repair the Authority Poles in a substantial way ("Reconditioning Work"). The Provider

shall reasonably cooperate with the Authority to carry out Reconditioning Work activities in a manner that minimizes interference with the Provider's approved use of the facility.

- (A) Prior to commencing Reconditioning Work, the Authority will use reasonable efforts to provide the Provider with at least one hundred twenty (120) days prior written notice. Upon receiving that notice, it shall be the Provider's sole responsibility to provide adequate measures to cover, remove, or otherwise protect the Provider's Communications Facility from the consequences of the Reconditioning Work, including but not limited to paint and debris fallout. The Authority reserves the right to require the Provider to remove all of the Provider's Communications Facility from the Authority Pole and surrounding premises during Reconditioning Work, provided the requirement to remove same is contained in the written notice required by this Subsection. All cost associated with the protection measures, including temporary removal, shall be the sole responsibility of the Provider. If the Authority fails in good faith to give notice of less than one hundred twenty (120) days notice, it will not affect the Authority's rights under this Subsection. In all cases, as much notice as possible should be provided, but in no case less than thirty (30) days notice shall be provided. The Authority will provide the Provider with a date by which its equipment must be protected or removed.
- (B) The Provider may request a modification of the Authority procedures for carrying out Reconditioning Work in order to reduce the interference with Provider's operation of its Communications Facility. If the Authority agrees to the modification, the Provider shall be responsible for all reasonable incremental cost related to the modification.
- (C) If the Authority Poles need to be replaced ("Replacement Work"), the Authority shall provide Provider with at least one hundred twenty (120) days written notice to remove its Communications Facilities. The Authority shall also promptly notify Provider when the Authority Poles have been replaced and Provider may re-install its equipment. During the Replacement Work, the Provider may maintain a temporary Communications Facility on the property, or after approval by [City], on any land owned or controlled by [City], in the vicinity of the property. If the property will not accommodate the Provider's temporary Communications Facility or if the parties cannot agree on a temporary location, the Provider, at its sole option, shall have the right to suspend the applicable permit, until the replacement Pole is installed, upon thirty (30) days written notice to the Authority.

If the Authority Poles need to be repaired due to storm or other damage ("Repair Work"), the Authority shall notify the Provider to remove its Communications Facilities as soon as possible. In the event of an emergency, the Authority shall contact the Provider by telephone at its emergency contact of record upon or prior to removing the Provider's equipment. Once the Authority Poles have

been replaced or repaired, the Authority will promptly notify the Provider that it can reinstall its equipment. During Authority Repair Work, the Provider may maintain a temporary Communications Facility on the property, or after approval by Provider, on any land owned or controlled by the Authority in the vicinity of the property. All cost associated with any removal or protection of Communications Facilities shall be the sole responsibility of the Provider, except to the extent caused by third-parties or the Authority.

- h. Attachment to Authority Poles in the Public ROW.
  - (i) Make-Ready. For any attachment to Authority Poles in the Public ROW, the [City] shall provide a good faith estimate for any make-ready work necessary to enable the Authority Pole to support the proposed facility, including Replacement of the Pole if necessary, within sixty (60) days after receipt of a completed Application requesting attachment to the Authority Pole. Make-ready work including any Pole Replacement shall be completed within one hundred and twenty (120) days of written acceptance of the good faith estimate by the Provider. Such acceptance shall be signified by payment via check or other commercially reasonable and customary means specified by the [City].

#### **Section 2.4 Applications Requiring Discretionary Review and Approval.**

- a. Discretionary Review Required. All other uses not expressly set forth or referenced in Subsection 2.2(a) above shall require compliance with, and issuance of a Permit under [**cite to existing requirements of the City Code/Charter that require Discretionary Review**].

#### **Section 2.5 Other Public ROW Installation Requirements.**

- a. General Principles.
  - (i) The Authority shall have the power to establish reasonable and non-discriminatory limitations on the placement of new or additional facilities within specific congested segments of the Public ROW if there is insufficient space to accommodate all of the requests of Applicants or other Persons to occupy and use the Public ROW. In making such decisions, the Authority shall to the extent possible accommodate all existing users and potential users (i.e. those who have submitted an Application to deploy facilities within the Public ROW) of the Public ROW, and shall be guided primarily by considerations of the public interest, the width and physical condition of the Public ROW, the time of year with respect to essential utilities, the protection of existing facilities in the Public ROW and established plans for public improvements and development projects which have been determined to be in the public's interest.
  - (ii) Leasing of excess space in ducts, conduits and on a Pole is a matter between interested parties (subject to any applicable Pole Attachment regulations and any other applicable statutory, regulatory or contractual obligations); however, lessees or licensees of such physical facilities must

still comply with the terms of this Chapter, unless otherwise expressly exempted by the Authority.

- (iii) An occupant of the Public ROW shall employ due care during the installation and maintenance process, and comply with all safety and Public ROW-protection requirements of applicable Federal, State and local Laws (and any generally applicable Authority guidelines, standards and practices), and any additional commonly accepted safety and Public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable Laws). All facilities under the streets of the Authority shall be kept and maintained in a safe and well-ordered condition, and in good order and repair.
  - (A) Any permittee occupying any portion of the Public ROW shall erect a barrier around the perimeter of any excavation and provide any and all traffic-control devices, signs and lights appropriate to the level of complexity of the activity in order to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic-control plan in accordance with the Uniform Manual of Traffic Control Devices.
  - (B) Occupants of the Public ROW with open excavations awaiting final restoration shall maintain all devices until the Authority notifies the occupant in writing that the Authority or the Authority's designated contractor is assuming responsibility for traffic control.
  - (C) Each occupant shall designate a safety officer. The safety officer shall be responsible for safety-related issues affecting both the public and the occupant's field employees and contractors for all job sites within the Public ROW.
- (iv) Location of Existing Facilities.
  - (A) An occupant of the Public ROW shall not place any fixtures or equipment where the same will interfere with any existing facility, and shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Public ROW.
  - (B) To minimize disruption of public passage or infrastructure, to forestall or relieve overcrowding of the Public ROW, or to protect Historic Property or environmentally sensitive areas, the Authority may require, as a condition of issuing any Permit for placement of underground facilities that the occupant place empty conduits in excess of its own present and reasonably foreseeable requirements for the purpose of accommodating the Authority's use. The occupant shall cooperate with the Authority in any such construction, provided that the Authority has first notified the occupant in writing that it is interested in sharing the trenches or

bores in the area where the construction is occurring. The occupant shall allow the Authority to place its infrastructure in the occupant's trenches and bores as requested by the Authority, provided that the Authority incurs an incremental share of the costs of trenching, boring, and placing the conduit/infrastructure. The Authority shall be responsible for maintaining its facilities buried in the trenches and bores or otherwise placed in the Public ROW under this Subsection.

(C) Before beginning excavation in any Public ROW, an occupant shall contact the regional notification center for subsurface installations (One-Number Locator Service) to determine possible conflicts.

(v) Relocation of Existing Facilities.

(A) If relocation of facilities is required as a result of any public project, the Authority shall provide the greatest practical advance notice to the affected occupants of the Public ROW and shall facilitate the greatest reasonable project coordination among the affected occupants, whereas coordinated sequencing dependencies are common. Generally, projects of greater scale and scope will have a longer planning horizon, and commensurate notice.

(B) The objective of the relocation process recognizes the mutual obligations and responsibilities of the Authority and the Public ROW occupants to avoid or minimize service disruption and to timely and economically complete the public project. Public ROW occupants are obligated to proceed with diligent speed and attention so as to not unreasonable delay or complicate a public project.

(C) As general guidance, projects involving a public project of greater than [\$\_\_\_\_\_] dollars, or more than ten (10) utility poles, or more than one thousand (1000) frontage feet of public roadway would be smaller projects; and projects greater than any of the above would be larger projects. A reasonable, general expectation is that that smaller projects would provide ninety (90) days' notice, and larger projects would provide one hundred and eighty (180) days' notice to complete the relocation of the Pubic ROW occupants.

(D) Unless otherwise provided by applicable Laws, the occupant, at no cost to the Authority, shall accomplish the necessary relocation within a reasonable time from the date of the notification, but, in no event, no later than seven (7) days prior to the date the Authority has notified the occupant that it intends to commence its work which mechanically requires the occupant's relocation, or immediately in the case of emergencies. With as much notice as possible, but in no event less than one hundred and eighty (180) days following written notice from the [City], a Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Communications Facility.

- (E) Facility within the Public ROW whenever the [City] has determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance or installation of any [City] improvement in or upon, or the operations of the [City] in or upon, the Public ROW. The [City] will use its best efforts to accommodate the Provider's request for relocation of the Communications Facility.
- (F) Except as provided in Section 2.5(a)(iv)(B), the Authority may not directly or indirectly require an Applicant to perform services unrelated to the Communications Facility or Support Structure for which approval is sought, such as in-kind contributions, except reserving fiber, conduit or pole space for the Authority. Notwithstanding the foregoing, an Applicant may offer in-kind contributions related to Communications Facility or Support Structure for which approval is sought, on a reasonable and nondiscriminatory basis, including by contributing the cash value of an in-kind contribution already provided by another party.

(vi) In the event of an emergency where any Communications Facility in the Public ROW creates or is contributing to an imminent danger to health, safety, or property, the Authority may protect, support, temporarily disconnect, remove, or relocate any or all parts of such Communications Facility, and charge the occupant for actual and reasonable costs incurred. The Authority shall engage the emergency contact information of record or best available, if possible for prior notice, and if not possible because of emergent and imminent danger, shall notify the occupant promptly afterwards. Ten (10) days after notification as outlined in this Subsection, the Authority may remove any Communications Facilities that obstructs the progress of a public project. All costs associated with any removal or protection of Communications Equipment shall be the sole responsibility of the Provider.

(vii) Abandonment of Facilities.

- (A) Any occupant of the Public ROW that intends to permanently discontinue use of any facilities within the Public ROW shall notify the Authority in writing within thirty (30) days prior to abandonment. Such notice shall describe the facilities for which the use is to be discontinued, and the date of discontinuance of use. Upon notification, the Authority will chose from the following options [within [ ] days] or any other agreed upon option, and so notify the occupant of its decision:
  1. Abandon the facilities in place and the occupant shall further convey full title and ownership of such abandoned facilities to the Authority. The occupant is responsible for all obligations of the facilities, or other associated liabilities until the conveyance to the Authority is completed; or
  2. The facilities shall be removed and the occupant shall be liable for removing the facilities at its own cost. If an occupant fails to remove facilities that the Authority requires it to remove, after ninety (90) days notice to the occupant, the Authority may perform the work and shall be entitled to

collect the cost from the occupant its successors and/or assigns.

b. Additional Requirements.

- (i) General. All deployments of Communications Facilities in the Public ROW shall comply with the following:
  - (A) Compliance with ADA and other applicable Federal, State and local Laws and standards.
  - (B) Pedestrian and vehicular traffic and safety requirements established by the Authority.
  - (C) Existing Public ROW occupancy or management ordinances, not otherwise inconsistent with this Chapter.
- (ii) Design Standards. All aboveground Communications Facilities in the Public ROW requiring Administrative Review only shall conform to the following non-discriminatory design guidelines generally applicable to all facilities in the Public ROW [**ESTABLISH, THROUGH PUBLIC PROCESS AS DESIRED OR REQUIRED, DEFINITIVE, OBJECTIVE DESIGN GUIDELINES THAT AN APPLICANT CAN FOLLOW AND INCORPORATE FOR COMPLIANCE WITH ADMIN REVIEW ONLY PROCESS**]:
  - (A) Add shape and other requirements for attachments and ground-based equipment.
  - (B) If the proposal involves Collocation on or Replacement of a Decorative Pole, such collocation or Replacement must comply with Section 2.6 below.
  - (C) If the proposal involves attachment to or a new Pole or Tower on or adjacent to a Historic Property, consider further requirements.
  - (D) Reasonable public safety standards.
  - (E) Reasonable stealth and concealment requirements that are consistent and set forth in writing, provided that such design standards may be waived by the Authority upon a showing that the design standards are not reasonably compatible for the particular location of a Small Wireless Facility or that the design standards impose an excessive expense.
  - (F) [Other].
- (iii) Additional Permits. In addition to obtaining a Permit for installation of a Communications Facility in the Public ROW, an Applicant must obtain the following additional permits: [street opening permit, electrical permit, \_\_\_\_\_ - insert other specific local permits].
- (iv) Placement of facilities. The Authority engineer may assign specific corridors within the Public ROW, or any particular segment thereof as may

be necessary, for each type of facilities that is or, pursuant to current technology that the Authority engineer expects will someday be located within the Public ROW. All excavation, obstruction, or other Permits issued by the [City] engineer involving the installation or replacement of facilities shall designate the proper corridor for the facilities.

[SEE APPENDIX D FOR SUGGESTED “Underground Construction” PROVISIONS, WHICH CAN BE INSERTED HERE IF [Code/Charter] DOES NOT CONTAIN SUCH PROVISIONS]

- c. Mapping Data. Applicants shall provide to the Authority engineer information indicating the horizontal and approximate vertical location, relative to the boundaries of the Public ROW, of all equipment which it owns or over which it has control and which is located in any Public ROW. Mapping data shall be provided with the specificity and in the format requested by the [City] engineer for inclusion in the mapping system used by the [City] engineer.
- d. Existing Utility Easements in the Public Right of Way.
  - (i) Applicants will work with the [City] engineer to coordinate and protect existing utilities in the Public ROW.
  - (ii) Applicants will coordinate with the [City] engineer all public safety considerations prior to and during installation in the Public ROW to ensure public safety response in the case of gas line, water line or electricity disturbance.

### **Section 2.6 Attachment to and Replacement of Decorative Poles.**

Notwithstanding anything to the contrary in this Chapter, an Applicant may install a Small Wireless Facility on a Decorative Pole, or may Replace a Decorative Pole with a new Decorative Pole that is in keeping with the aesthetics of the existing Decorative Pole, in the event the existing Decorative Pole will not structurally support the attachment, only upon satisfaction of the following additional requirements:

- (i) Issuance of a Permit under Subsection 2.2(a) above.
- (ii) The attachment and/or the Replacement Pole is in keeping with the aesthetics of the Decorative Pole in the judgement of the Authority.

### **Section 2.7 Batch Applications.**

An Applicant may submit simultaneously not more than twenty-five (25) Applications for a network of multiple Communications Facilities within adjacent, related geographic areas of the [City] if the population of the [City] is 100,000 or more, or not more than five (5) Applications if the population of the [City] is less than 100,000. Alternatively, Applicant may file a single, consolidated Application covering such facilities.

**Article III. Governance of Deployment Outside the Public ROW [Article III of this model ordinance covers “Governance of Deployment Outside the Public Right of Way.” State and local laws related to land use and zoning which are applicable to your jurisdiction may require that these model provisions be adjusted to ensure compliance and consistency with all applicable State and local laws. Please consult with your attorney in the adoption of any of these provisions.]**

**Section 3.1 Permitted Communications Facility Uses Administrative Review; Application and Fees.**

- a. Permitted Use. The following uses outside the Public ROW, on privately-owned property (including within any Utility Easement, to the extent expressly set forth below), shall be a permitted use, subject to Administrative Review only and issuance of a Permit as set forth in this Section 3.1, and subject to Applicant’s legal right to install and operate the Communications Facility on the property or structure:
- (i) Collocation of a Small Wireless Facility or a Collocation that qualifies as an Eligible Facilities Request on privately-owned property including, without limitation, within a Utility Easement, consistent with the height and other limitations set forth in Subsection 2.3(c) above;
  - (ii) Modification of a Pole, Tower or Support Structure, or Replacement of a Pole or Tower, for Collocation of a Communications Facility on privately-owned property (including within a Utility Easement that contains other existing Poles) that qualifies as an Eligible Facilities Request or involves a Small Wireless Facility that does not exceed the limitations set forth in Subsection 2.3(c)(i)(A)(1) above. All other such modifications or Replacements are subject to Discretionary Review under [**cite to zoning, land use or similar Code provisions in Code/Charter**];
  - (iii) Construction of a new Pole (or monopole Tower), within a Utility Easement on which there currently exist adjacent Poles that are unavailable for Collocation due to structural, accessibility or other reasons, to be used for Collocation of a Small Wireless Facility (that does not exceed the maximum height set forth in Subsection 2.3(c)(i)(A)(1) above), and the new Pole (or monopole Tower) is similar in design, size and scale to those of the existing, adjacent Poles; and
  - (iv) Construction of a Communications Facility, other than those set forth in subparagraphs (i), (ii) or (iii) in this Subsection 3.1(a), involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more Poles or a Pole and a Tower and/or Support Structure, and related equipment and appurtenances.
  - (v) Any other type of Communications Facility authorized under [**cite to existing requirements of the City Code/Charter that allow installation with Administrative Review only**].

- b. Permit Required. No Person shall place a facility described in Subsection 3.1(a) or perform any construction activities above without first filing an Application for same and obtaining a Permit therefor, except in Subsection 1.2(s) or as otherwise expressly provided in this Chapter.
  
- c. Proprietary or Confidential Information in Application. The Authority shall make accepted Applications publicly available. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the Authority shall treat the information as proprietary and confidential, subject to applicable State and local “freedom of information” or “sunshine” Laws and the Authority’s determination that the Applicant’s request for confidential or proprietary treatment of an Application material is reasonable.
  
- d. Administrative Review Application Requirements. The Application shall be made by the applicable Provider or its duly authorized representative and shall contain the following:
  - (i) The Applicant’s name, address, telephone number, and e-mail address, including emergency contact information of record.
  - (ii) A certification by the Applicant that it has the legal right to install and operate the Communications Facility on the property or structure.
  - (iii) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.
  - (iv) A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.
  - (v) Detailed construction drawings regarding the proposed facility.
  - (vi) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a [duly licensed engineer] evidencing that the Pole, Tower or Support Structure will structurally support the Collocation or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.
  - (vii) For any aboveground facilities, visual depictions or representations, if not included in the Construction drawings.
  
- e. Ordinary Maintenance, Repair and Replacement. An Application shall not be required for Ordinary Maintenance, Repair and Replacement, other than to the extent required for applicable Permits described in Subsection 2.5b(iii) above.

- f. Information Updates. Any material change to information contained in an Application shall be submitted in writing to the [City] within thirty (30) days after the change necessitating the change.
- g. Application Fees. Unless otherwise provided by applicable Laws, all Applications for a Facility under Section 3.1 above shall be accompanied by the following Fees  
\_\_\_\_\_.

**Section 3.2 Action on Administrative Review Application.**

- a. Review of Applications for Administrative Review.
  - (i) The [City] shall review the Application in light of its conformity with applicable provisions of this Chapter, and shall issue a Permit on nondiscriminatory terms and conditions, subject to the following requirements:
    - (A) Within twenty (20) days of receiving an Application, the [City] must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the [City] must specifically identify the missing information, and may toll the approval interval in Subsection 3.2(a)(i)(B). The Applicant may resubmit the completed Application within twenty (20) days without additional charge, and the subsequent review will be limited to the specifically identified missing information subsequently completed, except to the extent material changes to the proposed facility have been made by the Applicant (other than those requested or required by the Authority) in which case a new Application and Application Fee for same must be submitted; and
    - (B) The [City] must make its final decision to approve or deny the Application within sixty (60) days for a collocation, and ninety (90) days for any new structure, after the Application is complete (or deemed completed); and
    - (C) The [City] must advise the Applicant in writing of its final decision, and in the final decision document the basis for a denial, including specific code provisions on which the denial was based. A decision to deny an application shall be in writing and supported by substantial evidence contained in a written record, publicly released, and sent to the applicant. The written decision, supported by such substantial evidence, shall constitute final action by [City]. The review period or “shot clock” shall run until the written decision, supported by substantial evidence, is released and sent to the Applicant contemporaneously. The Applicant may cure the deficiencies identified by the [City] and resubmit the Application within thirty (30) days of the denial without paying an additional Application Fee, unless denial was issued due to noncompliance with Design Guidelines or other requirements under this Article III (in which case a new Application Fee must be paid). The [City] shall approve or deny the revised Application within thirty (30) days of

receipt of the revised Application. The subsequent review by the [City] shall be limited to the deficiencies cited in the original denial.

- (ii) If the [City] fails to act on an Application within the review period referenced in Subsection 3.2(a)(i)(B) above, the Applicant may provide the [City] written notice that the time period for acting has lapsed, and the [City] then has twenty (20) days after receipt of such notice within which to render its written decision, failing which the Application is then deemed approved by passage of time and operation of law.
- (iii) An Applicant seeking to construct, modify or replace a network of Communications Facilities may, at the Applicant's discretion and subject to the Authority's batch Application requirements and process under Section 2.7 above, file a consolidated Application and receive a single Permit for multiple Communications Facilities, or multiple Permits. The [City]'s denial of any site or sites within a consolidated Application shall not affect other sites submitted in the same Application. The [City] shall grant a Permit(s) for any and all sites in a consolidated Application that it does not otherwise deny, subject to the requirements of this Section.

b. Effect of Permit.

- (i) Authority Granted; No Property Right or Other Interest Created. A Permit from the [City] authorizes an Applicant to undertake only certain activities in accordance with this Chapter, and does not create a property right or grant authority to the Applicant to impinge upon the rights of others who may own or have other interests in the Utility Easement or other privately-owned property.
- (ii) Duration. Any Permit for construction issued under this Article III shall be valid for a period of six (6) months after issuance, provided that the six month period shall be extended for up to an additional 6 months upon written request of the Applicant (made prior to the end of the initial 6 month period) if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the Applicant.

### **Section 3.3 Eligible Facilities Requests.**

- a. Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the [City] shall approve and may not deny Applications for Eligible Facilities Requests within sixty (60) days according to the procedures established under 47 C.F.R. 1.40001(c).

### **Section 3.4 Applications Requiring Discretionary Review and Approval.**

- a. Discretionary Review Required. The following uses on private property including, without limitation, on any Utility Easement, shall require compliance with, and issuance of a Permit under **[cite to existing requirements of the City Code/Charter that require Discretionary Review]**:
  - (i) Collocation of Wireless Facilities that do not qualify as Eligible Facilities Requests **[OPTIONAL TEXT; provided, however, if the proposed Wireless Facility would qualify as an Eligible Facilities Request but**

**for the placement of ground equipment outside the current site or compound, but the proposed Wireless Facility meets the underlying setbacks for the type of equipment being installed on the ground and any landscaping or fencing requirements applicable generally in that location, the Application shall be subject to Administrative Review only].**

- (ii) All other uses not expressly set forth or referenced in Subsection 3.1(a) above.

### **Section 3.5 Temporary and Emergency Installations.**

- a. A Deployable may be operated for a period of not more than [one hundred and twenty (120)] days, when operated in connection with a special event after issuance by the Authority of a Permit based upon an Administrative Review only. Deployable operated in conjunction with a special event shall meet reasonable setbacks determined by the [City engineer], shall be subject to receipt of a valid building Permit, if applicable, shall meet uniform fire code requirements, and shall be removed within seventy-two (72) hours of completion of the event.
- b. A Deployable may be operated in any zoning district after a declaration of an emergency or a disaster by an Authority executive.

### **Section 3.6 Design Standards.**

All aboveground Communications Facilities to be installed outside of the Public ROW and requiring Administrative Review only shall conform to the following non-discriminatory design guidelines generally applicable to similar Communications Facilities outside of the Public ROW.

**[ESTABLISH, THROUGH PUBLIC PROCESS AS DESIRED OR REQUIRED, DEFINITIVE, OBJECTIVE DESIGN GUIDELINES THAT AN APPLICANT CAN FOLLOW AND INCORPORATE FOR COMPLIANCE WITH ADMIN REVIEW ONLY PROCESS]:**

- a. Height, size, color
- b. Structure design/style (new/replacement use cases)
- c. Structure classification for existing Towers shall be evaluated under the latest version of ANSI/TIA-222
- d. Excluded Poles and mitigation approach (including Authority requirement to "facilitate alternative location recommendation")
- e. Default aesthetic approach per facility [provide details regarding acceptable aesthetics and consider including details for installations that are aesthetically similar to other installations already placed within the Public ROW]
- f. Default construction approach per facility including powering and metering
- g. Default structural integrity/remediation approach per facility
- h. Default electrical integrity/remediation approach per facility

- i. Default set-backs
  - (i) Setbacks for ground-mounted equipment.
  - (ii) Ground-mounted equipment for Wireless Facilities, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Tower. Any equipment not used in direct support of such operation shall not be stored on the site.
  - (iii) Ground-mounted equipment for Wireless Facilities must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the Authority.
- j. Lighting and Marking
  - (A) Towers shall not be lighted or marked unless required by, and compatible with requirements of, the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
    - In all districts, appropriate security lighting meeting generally applicable standards for security lighting for the district shall be permitted.
- k. Fencing/landscaping/signage.
  - (A) Fencing.
    - 1. Towers shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Authority.
    - 2. The Authority may waive the requirement of Subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.
    - 3. For locations where decorative fencing is otherwise required, the Authority may allow chain link fence if decorative fence poses a risk for security or vandalism.
    - 4. For Towers located within a floodplain where the ground equipment will be elevated on platforms, the Authority may waive any decorative fencing requirement in favor of chain link.
  - (B) Landscaping. In all districts, the Authority shall have the authority to impose reasonable landscaping requirements surrounding the any ground-mounted equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The Authority may choose to not require landscaping for sites that are not visible from the Public ROW or

adjacent property or in instances where in the judgment of the Authority, landscaping is not appropriate or necessary.

- (C) Signage. Signs located shall be limited to ownership and contact information, FCC's "Antenna Structure Registration" information (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.
- (D) Other Decision factors.
  - 1. Collocation analysis.
  - 2. Alternative site analysis.

### **Section 3.7 "DIG ONCE" REQUIREMENTS<sup>3</sup>**

#### **a. Requirements for New Developments**

- (i) For all new commercial, residential, mixed use and other significant planned developments, the Authority's planning department [or equivalent] may require [or request] that the project developer publicly offer to coordinate with Providers who operate, or have applied for, facilities in the [City] either through the Municipal Planning/Utilities/Transportation Department or similar process to ensure the Public ROW and any planned utility easements are adequate to accommodate the deployment of both aboveground and underground Communications Facilities. Specifically, planned utility easements should allow for an adequate number of huts, utility Poles and other structures, as well as belowground conduit, to adequately serve current and anticipated Communications Facilities. Access to easements should be provided to Providers on a non-discriminatory basis and at a reasonable cost, or pursuant to applicable Laws.
- (ii) In instances where a project developer chooses to install conduit for belowground Communications Facilities, the developer should be encouraged or required to provide on a non-discriminatory basis and reasonable cost access to the planned utility easement areas. In addition, access to easements and trenches should be made available to Providers as early in the development cycle as possible to minimize installation costs and disruption to residents, businesses, institutions and governments, and their property. The project developer should be encouraged to promote coordination among Providers and other utilities so that each can benefit from the other's construction activities to allow timely and efficient access.

#### **b. Online Database of Public Construction**

- (i) The [City] should consider establishing a "planned construction" database accessible to all Providers preferably via the Internet or other equivalent means. The database should list and describe future planned construction

---

<sup>3</sup> 3 SECTION 4.1 PROVISIONS SHOULD BE CONSIDERED, IF SIMILAR ONES DO NOT ALREADY EXIST IN THE [CITY]'S CHARTER/CODE, TO BETTER COORDINATE DEPLOYMENT OF COMMUNICATIONS FACILITIES WITH PUBLIC AND OTHER PRIVATE DEVELOPMENTS.

activities that will affect the Public ROW. Providers will be able to consult the database to avoid areas of planned construction to coordinate their construction and, where possible, minimize the cost of relocating facilities, as well as to become aware of joint construction opportunities that could benefit the [City], the Provider, and others. If such a database is not available to Providers, the Planning/Utilities/Transportation Department (or equivalent) should notify franchises, licensees or otherwise authorized Providers of planned construction activities when they are authorized or funded.

- (ii) When constructing roads or public utilities, the [City] should make open trenches available to Providers on a non-discriminatory basis and at a reasonable cost [Generally cost is shared on a pro-rata basis], or pursuant to applicable Laws.

**Section 3.8 Violation of this Chapter:**

- a. Violation of any of the provisions of this Chapter shall be a simple citation punishable with a civil penalty of \$\_\_\_\_\_for each violation which continues more than \_\_\_\_ (\_\_) days after written notice of such violation is provided to the Applicant. Each day, after such notice, that a violation occurs or is permitted to exist by the Applicant constitutes a separate offense.

**Section 3.9 Exceptions to Applicability of this Chapter.**

- a. Notwithstanding anything to the contrary in this Chapter, the following facilities are not subject to the provisions of this Chapter: (1) antennas used by residential households solely for broadcast radio and television reception; (2) satellite antennas used solely for residential or household purposes; and (3) television and AM/FM radio broadcast Towers and associated facilities.

**Section 3.10 Effective Date.**

This Chapter shall take effect\_\_\_\_( ) days after its passage, approval and publication.

## APPENDIX A

# Drafters' Explanation

---

The FCC Broadband Deployment Advisory Committee, Model Code for Municipalities Working Group (“Working Group”) was charged with developing a model code for local governments across the country to act as a non-binding, flexible guideline to help to speed broadband deployment across the United States. There are over 39,000 local governments (including townships, counties, and other municipalities) in the United States, with enormous diversity based on geography, size, resources, aesthetics, existing infrastructure, regulatory and legal framework, history, culture, and community priorities.

Pursuant to the FCC’s charge, and given the importance of broadband deployment to America’s economic competitiveness as well as creating educational and employment opportunities for our population, the Working Group developed the following set of guiding principles to focus its work:

1. Contribute to the swift and safe deployment and expansion of broadband throughout the United States.
2. Ensure the benefits of broadband networks and infrastructure reach all communities.
3. Promote competition, access, and diversity in the deployment of both wired and wireless broadband infrastructure and the provision of broadband services.
4. Develop guidelines for the use of public assets to ensure the best overall outcome for all current and potential residential and commercial broadband users.
5. Develop guidelines for predictable, network-level planning and implementation, which also helps to minimize adverse impacts to municipalities and local communities and maximizes benefits.
6. Promote transferring of knowledge to local governments to help enable and accelerate broadband deployment.
7. Recognize the need to allocate resources to digital inclusion and innovative business models to drive broadband adoption and close digital divides.
8. Promote innovation, economic and job growth, and improved quality of life through broadband access and usage.
9. Promote fair labor and safety standards for workers and the public.
10. Balance the use of public rights-of-ways to support and enhance robust and competitive broadband services in a manner that is consistent and balanced recognizing the differences among technologies.

In this spirit, the following Model Code represents the inputs from cross-sector Working Group members to inform the codes of local governments across the country.

**See APPENDIX A-1 below regarding a discussion of possible Municipal Policies to Promote Digital Inclusion.**

**NOTE: When considering adoption of this Model Code, local governments should consider that there may be Federal, State or local Laws that could limit or otherwise affect various terms and provisions set forth herein. Circumstances of each local government may require modifications of this Model Code and legal review is strongly advised prior to adoption.**

## APPENDIX A-1

### Municipal Policies to Promote Digital Inclusion

The Model Code for Municipalities Working Group recommended and the BDAC subsequently adopted Ten Guiding Principles for broadband infrastructure deployment. The guiding principles include the commitment to

- Ensure the benefits of broadband networks and infrastructure reach all communities
- Recognize the need to allocate resources to digital inclusion and innovative business models to drive broadband adoption and close digital divides.

There are a variety of mechanisms to execute digital inclusion programs which we include here as options for municipalities. The Federal USF Schools and Libraries, Rural Health, and a combination of coordinated Federal-State programs provide broadband subsidies to anchor institutions and the Federal Lifeline program provides subsidies for broadband access to low-income families. Some municipalities have established a Digital Inclusion Office to promote digital inclusion programs.

#### Program Description

Digital inclusion experts have identified the following four (4) program areas that promote broadband adoption: 1) Make low-cost broadband available to low-income households; 2) Make affordable computers and/or tablets available to low-income households; 3) Promote digital literacy training connected to relevant content and services; and 4) Establish a network of public access computing centers.

The following digital programs and policies generally have a proven track record of success:

**Establish a digital inclusion plan.** Convene a diverse group of community stakeholders and government officials to assess barriers to broadband adoption, survey community resources, and develop a digital inclusion action plan with timetables and measurable outcomes.

**Provide public Wi-Fi.** Establish public wireless networks and provide Wi-Fi hotspots in public places. Some cities have put free Wi-Fi in public parks, community centers and libraries, on city buses, in laundromats, and on school buses.

**Facilitate broadband deployment and free or low-cost access in public housing.**

**Create Wi-Fi hotspot lending libraries** available from libraries, schools, job centers, and community organizations.

**Fund public access computing centers.** Libraries, job centers, schools, community organizations often combine public access computers in conjunction with digital literacy and Wi-Fi hot spot lending libraries.

**Provide digital literacy education** and provide low-cost or free refurbished computers or tablets upon completion of a digital literacy program.

**Provide low-cost or free computers and tablets to low-income families.** Some schools provide every student a computer or tablet. Some programs provide free computers or tablets upon completion of community service or a digital literacy program.

**Promote broadband subsidies for low-income families.** Promote the Federal (and, if available, state) Lifeline subsidies for broadband. In some locations, ISPs offer low-cost broadband access and refurbished computers; coordinate with schools to promote these programs. In other areas, encourage ISPs to offer low-cost broadband and equipment to low-income households.

**APPENDIX B**

**Public Right of Way Utility Application  
For Wireline Only Installations  
(coax, fiber-optic or other cabling, and related equipment)**

**Applicant Information**

Applicant Name		Company Name	
Applicant Email		Company Address	
On-Site Contact Name		On-Site Contact Phone #	
On-Site Contact Email			

**Project Information**

*Location(s):* \_\_\_\_\_

*Project Description:* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Portion(s) of the Public Right of Way affected by project. (Select all that apply)*

Street \_\_\_\_\_ Sidewalk \_\_\_\_\_ Shoulder \_\_\_\_\_

*Work Types:*

Telecommunications: \_\_\_\_\_ Linear Feet: \_\_\_\_\_ Underground \_\_\_\_\_ Aerial \_\_\_\_\_  
Service \_\_\_\_\_

*Other Infrastructure Impacts (Power/Gas/Sewer):*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Public Right of Way Obstruction Request. (Select all that apply)*

Sidewalk Obstruction/Detour: \_\_\_\_\_ Date(m/d/yy) From: \_\_\_\_\_ To: \_\_\_\_\_  
Lane Obstruction: \_\_\_\_\_ Date(m/d/yy) From: \_\_\_\_\_ To: \_\_\_\_\_  
Full Street Closure: \_\_\_\_\_ Date(m/d/yy) From: \_\_\_\_\_ To: \_\_\_\_\_

*Checklist:*

Applicant agrees to comply with all applicable Local, State, and Federal Regulations.

\_\_\_\_\_  
Applicant agrees to all street, lane and sidewalk closures and detours will be in Compliance with the ADA and MUTCD requirements.

\_\_\_\_\_  
A copy of the Permit must be on-site of construction.

\_\_\_\_\_  
All Fees must be paid prior to the start of construction.

\_\_\_\_\_  
Applicant/Permittee Signature

\_\_\_\_\_  
Date

## **Utility Permit Requirements**

- A. **Location Plan:** An Applicant shall file a completed location plan as an attachment to this Utility Application. The location plan shall be designed and approved by a licensed professional engineer licensed in the State and set forth the location of the proposed line on the road system or along lot lines and include a description of the proposed installation. Drawings shall include the following information:
1. Street name or number. The centerline should be indicated.
  2. Visible orientation (North Arrow) and identifying landmarks.
  3. Identify Public Right of Way line with horizontal distance from street centerline shown.
  4. Provide One Call design request information. (Minimally, the list of utilities)
  5. List all the existing utilities in the installation area. Describe how your installation will address existing utilities that are in conflict, and show all observable existing features, such as power Poles, pedestals, markers, handholes, tress, etc.
  6. Show all construction features/ bore pits with the running line and horizontal distance from roadway edge or centerline.
  7. Show the start/stop and depths or elevations for all bores, longitudinal and transverse.
  8. Show the start/stop and depths or elevations for all plowing or aerial locations.
  9. Show casing start/stop locations, lengths, diameter, and material if casings are used.
  10. Show all facilities that are to be install on the plan. This includes pedestals, wire, conduit, Poles, guy anchors, junction boxes, handholes and manholes. All facilities should show distance from roadway edge or centerline.
  11. Show where installation starts and stops, leaves Public ROW, stops at existing pedestal, Pole, etc. Indicate distance from roadway edge or centerline.
  12. Identify any physical focal points, posts, pedestals, shutoffs, overflow vales, hydrants, etc.
  13. Describe any other work to accomplish installation before during and/or after installation, including: removal of brush/trees, removal of underbuild, construction of access, fence removal, fence replacement, etc.
  14. A copy of applicable traffic control standards.
- B. **Notice of Work:** Applicant shall file at least \_\_\_\_\_ complete working days prior to the proposed installation a complete Public Right of Way Utility Installation Application, associated drawings and attachments, and required Fee. Additionally, at least \_\_\_\_\_ complete working days prior to the actual work, the Applicant shall notify the [City] of the intent to begin work.

- C. **Application Approval:** The [City] shall review a complete Application, associated plans and drawings in a timely manner, but under no circumstance longer than \_\_\_\_\_ days.
- D. **Inspection:** The [City] shall provide an inspector during the installation of all lines to review compliance with the Utility Permit. The inspector shall have the right, during reasonable hours and after showing proper identification, to enter any installation site in the discharge of the inspector's official duties, and to make any inspection or test that is reasonably necessary to protect the public health, safety and welfare. The Applicant shall pay the actual costs for inspection of the project.
- E. **Issuance:** Upon approval of the Application, the Utility Permit will be issued by the [City]. The Fee for the Permit will be \$\_\_\_\_\_.
- F. **Remittance of Fees:** The Applicant shall pay the actual costs of Fees directly attributable to the installation inspection conducted by the [City]. Payment shall be made within thirty (30) days after completion of the installation. Payments not made in such time shall be subject to reasonable interest charges.
- G. **Requirements:** The Applicant shall comply to the following requirements:
1. Construction signing shall comply with the Manual on Uniform Traffic Control Devices.
  2. A permanent warning tape shall be placed one (1) foot above all underground utility lines.
  3. Residents along the utility route shall have uninterrupted access to the public roads. An all-weather access shall be maintained for residents adjacent to the project.
  4. A joint assessment of the road surfacing shall be made by the Applicant and the [City] both before and after construction. After construction, granular surfacing shall be added to an existing granular roadway, drive or parking area by the Applicant to restore the surfacing to its original condition. After surfacing has been applied, the road surface shall be reviewed by the [City] once the road has been saturated, to determine if additional surfacing on the roadway by the Applicant is necessary.
  5. All damaged areas within the Public ROW shall be repaired and restored to equal or better condition by the Applicant or the cost of any repair work caused to be performed by the [City] will be assessed against the Applicant. Portland cement concrete patches shall be 1" thicker than the removed portland cement concrete surfacing. Asphaltic cement concrete patches shall be 1" thicker than the removed asphaltic cement concrete surfacing.
  6. Areas disturbed during construction which present an erosion problem shall be solved by the Applicant in a manner approved by the [City].
  7. All trenches, excavations, and utilities that are knifed shall be properly tamped.
  8. Cable, pipe line, and electrical line crossing paved roads shall be constructed as follows: Utilities designated by the [City] which cross under the roadway shall be placed in casings so that the pipe may be removed for repair without disturbing the

subgrade. The casing shall be adequate strength, and of sufficient length to extend two (2) feet beyond each edge of the surfaced roadway. On paved roads, cable casings may be placed through the sub-grade by jacking, or by boring a hole just large enough to take the line. All open excavations near pavement shall be of sufficient distance from pavement to prevent soil collapses resulting in undermining of pavement.

9. On roads not paved, an open trench may, upon approval of the [City], be dug and the cable, pipeline, or electric line placed therein, and the trench backfilled over the line. All backfilling of tunnels and trenches shall be thoroughly compacted in layers of 6" or less in depth. Backfilling of trenches within the Public ROW shall be compacted and tested in accordance with the latest design and construction specifications approved and disseminated by the [City]. All work shall be one in a workmanlike manner, and the ground left in a neat condition, satisfactory to the [City] in charge.
  10. To restore all excavations not in road surfaces but in the Public Right of Way with sod or seed as directed by the [City] to a condition that is equal to or better than existing prior to the construction of the project.
  11. All overhead utilities shall be placed at a distance of two (2) feet inside the Public ROW line unless specifically approved otherwise by the [City].
  12. Location and protection of all underground utilities is the Applicant/contractor responsibility. The Applicant/contractor will be required to coordinate work with the utility companies. Utility locations are coordinated by calling \_\_\_\_\_ (One Call). Existing utilities and services lines that coincide with proposed underground main locations are to be located in advance by the Applicant/contractor such that proposed underground utilities can be adjusted to eliminate conflicts.
- H. **Non-Conforming Work:** The [City] may halt the installation at any time if the Applicant's work does not meet the requirements set forth in this Utility Permit.
- I. **Emergency Work:** In emergency situations, work may be initiated by an Applicant without first obtaining a Utility Permit. However, a Utility Permit must be obtained within fourteen (14) days initiation of the work. All emergency work shall be done in conformity with the provisions of this Utility permit and shall be inspected for full compliance.
- J. **Violation of Ordinance:** Violation of any of the provisions of this Utility Permit shall be a simple misdemeanor punishable with a civil penalty of \$\_\_\_\_ for each violation. Each day that a violation occurs or is permitted to exist by the Applicant constitutes a separate offense.
- K. **Hold Harmless:** The utility company shall save this [City] harmless of any damages resulting from the Applicant's negligence or willful misconduct. A copy of a certificate of insurance naming this [City] as an additional insured for the work to be performed shall be filed with the [City] office prior to installation. The minimum limits of liability under the insurance policy shall be \$\_\_\_\_\_.
- L. **Surety or Cash Bond:** The contractor or Applicant shall have on file with the [City] a surety bond or cash bond for restoration of areas within the Public ROW and on utility easements. This bond shall be a minimum of \$\_\_\_\_\_ and may be of greater value

depending on the scope of the project. A cash bond shall be held for 90 days after date of completion.

- M. **Permit Required:** No Applicant shall install any lines unless such Applicant has obtained a Utility Permit from [City] and has agreed in writing that said installation will comply with all ordinances and requirements of the [City] for such work. Applicants agree to hold the [City] free from liability for all damage to Applicant's property which occurs proximately as a result of the Applicant's failure to comply with said ordinances or requirements.
- N. **Relocation:** The Applicant shall, at any time subsequent to installation of utility lines, at the Applicant's own expense, relocate or remove such lines as may become necessary to conform to new grades, alignment or widening of Public ROW resulting from maintenance or construction operations for highway improvements.

## APPENDIX C

### Small Wireless Facilities

The definition of Small Wireless Facility is intended to be broadly inclusive, and includes wireless facilities such as “traditional” small cells, fixed wireless antennas and related equipment and other wireless technologies. (See also, definitions of Wireless Facility and Wireless Services.)

Antennas and related equipment comprising a small Wireless Facility will vary in size. The purpose of the “volumetric” limitations within the definition is to establish a threshold within which an installation should be permitted with an “Administrative Review” only, and above which a “Discretionary Review” should be required.

Local governments will need to balance the needs of Providers to install and deploy current and latest generation Small Wireless Facility technology with the aesthetic impact of such installations. By way of example, the FCC has recently established for purposes of environmental and historic reviews under Federal Law, volumetric limits of 3 cubic feet for all proposed antennas and 28 cubic feet for all other associated equipment. In various local governments across the United States, different volumetric limits have been established as an acceptable standard for Administrative Review (e.g., New York City which permits antennas not exceeding 1.2 cubic feet and related equipment of 2.2 cubic feet for all related equipment and \_\_\_\_\_).

Below in Figures 1 through are photographs and depictions of various types of currently deployed Small Wireless Facility installations. Traditional “small cell” installations (see Figure 1) have only been deployed in recent years, using “4G” technology. With the development and upcoming deployment of “5G” technology, Providers will need to install 5G antennas and related equipment at the same sites as previously installed 4G technology. Thus, 5G installations will require the addition on antennas and related equipment, not replacement of the existing 4G equipment.

## APPENDIX D

### Sample Underground Construction Provisions

(TEXT SHOULD BE REVIEWED AND TAILORED FOR LOCAL CONDITIONS)

c. Underground Construction.

- (i) Placement. Unless agreed to in writing by the Authority in advance, underground facilities may, in general be placed between the property line and the curb line of all streets and avenues. Underground facilities shall have consistent alignment parallel with the edge of pavement and, unless agreed to in writing by the Authority, shall have a minimum [two-foot - OR consider local conditions] horizontal and vertical clearance from other underground utilities and their appurtenances.
- (i) Depth. Unless agreed to in writing in advance by the Authority, the depth of installed facilities shall be, at a minimum, measured from the bottom of the facility to the top of the cable, as follows:
  - (a) If the road style and other conditions permit, microtrenching no more than sixteen (16) inches in soil;<sup>4</sup>
  - (b) Twenty-four (24) inches in soil; (may be up to 48" depending on local conditions)
  - (c) Twenty-four (24) inches below a projected slope from the flowline of a ditch at a three (3) horizontal and one (1) vertical slope;
  - (d) Forty-eight (48) inches under a roadway measured from the surface of said roadway to the top of the installation;
  - (e) Forty-eight (48) inches under a stormwater or creek channel design flowline; and
  - (f) Twenty-four (24) inches under all water and natural gas lines.
- (ii) Excavations. Excavations shall be promptly backfilled according to Authority standards and the earth shall be restored to original grade and condition to assure no hazard to vehicular or pedestrian traffic. The Public ROW occupant shall perform all necessary compaction tests in accordance with the latest design and construction specifications approved and disseminated by the Authority setting forth requirements for backfill and paving cut repairs (e.g., standard concrete pavement cut and repair; standard asphalt pavement cut and repair, etc.).

---

<sup>4</sup> MICRO-TRENCHING IS A DEPLOYMENT METHODOLOGY IN WHICH FIBER AND CONDUIT ARE INSERTED INTO A SLOT-CUT TRENCH 2 INCHES WIDE AND BETWEEN 16 INCHES DEEP.

- (iii) Repair and Replacement. The repair or replacement of any sidewalk, any driving surface and the base of any roadway shall comply with Authority standards, pursuant to engineering plans on file with the Authority and may require additional removal to the nearest joint in all directions. Performance and payment of such repair and restoration shall be the responsibility of the Applicant, unless the Authority elects, in its sole discretion, to perform such repair or restoration, in which case Applicant will reimburse Authority for all actual and reasonable costs within thirty (30) days of demand by Authority for payment.
- (iv) Trench work. A ROW occupant shall not proceed with additional trench work exceeding a maximum of\_\_ hundred feet (\_\_\_ ) feet (generally 100 feet in urban and 500 feet in rural) of open trench without the approval of an Authority inspector.
- (v) Casement. Underground conduit shall be placed in such a manner so it can be located by any Public ROW occupant. All conduit should have sequentially marked footage at every foot. The approved methods of locating conduit are by using locatable pull tape, installing a ground wire, using a toneable duct or installing armored cable. All Public ROW occupants shall make all reasonable efforts to ensure that all existing facilities shall be marked during the normal course of business.
- (vi) Construction Signage.
  - (a) Any permittee excavating or obstructing any portion of the ROW shall erect a temporary sign displaying either: (1) The names of the Public ROW occupant, any contractors and/or subcontractors involved in the project and the Authority Permit number authorizing said activity; or (2) the names of the Public ROW occupant and a local telephone number or toll free number manned during regular business hours by an individual who is knowledgeable about the construction project. The sign shall be visible from any adjacent traffic lane and shall be maintained throughout the duration of the project.
  - (b) All vehicles used, parked or stored by or on behalf of a Public ROW occupant or permittee within a permitted construction zone shall be clearly marked, providing the name of the facility's owner, the permittee, the contractor or subcontractor. Any unmarked vehicles shall be subject to all moving and parking ordinances. Private vehicles shall not be permitted to be parked or stored within any permitted work zone at any time.
  - (c) A copy of the current Permit shall be maintained on each work site, and shall be presented upon request to any Authority representative.