



# Public Facilities Committee Agenda

## City of Newton In City Council

Wednesday, April 4, 2018

7:00 PM  
Room 204

### Items Scheduled for Discussion:

#### *Public Hearing*

**#204-18 Verizon petition for grant of location on Walnut Street**  
VERIZON petition for a grant of location to install 215'± of conduit from existing Manhole #16/182 in a southeasterly direction to 227 Walnut Street to provide new service. (Ward 2)

**Chairs Note:** The Committee will hear an update from Director of Environmental Affairs relative to the Organic Waste Pilot Program.

**#42-18 Review of City Council regulations governing petitions for wireless communication**  
COUNCILORS CROSSLEY, ALBRIGHT AND LAPPIN requesting a review of proposed City Council regulations pursuant to City Code Sec. 23-20, governing petitions for permission to install wireless communications facilities and new poles proposed for wireless communications use in the public ways of the City. Such rules would cover petitions that are subject to review under G.L. c. 166, §22 and 47 U.S.C. §332(c) (7) and petitions that are subject to review under 47 U.S.C. §1455 ("Eligible Facilities Requests").

Respectfully submitted,

Deborah Crossley, Chair

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

PETITION for GRANT OF LOCATION

204-18

**To the Petitioner:**

City of Newton Ordinance Section 23-52 requires that each petition for grant of location be submitted to the Board of Aldermen before it is sent to the Public Works Department for a preliminary review. The comments of the Public Works Commissioner will be part of the record submitted to the Board of Aldermen. Upon filing with the Board of Aldermen, the petition will be scheduled for a public hearing before the Public Facilities Committee of the Board of Aldermen. **The petitioner is responsible for insuring that the petition is complete and all required materials are in order for review.** Attached please find the City Engineer's Standard Requirements for Plans and the Department of Public Works Permit Processing brochure.

**Grant of Location Process:**

1. Applicant submits completed Petition Form and required materials to the Board of Aldermen
2. Public Works Department conducts preliminary review and gives written comments to the applicant
3. Engineering Division files Petition Form with comments with the Clerk of the Board of Aldermen
4. Board of Aldermen schedules petition for a public hearing before the Public Facilities Committee of the Board of Aldermen
5. Public Facilities Committee recommendations are forwarded to the Board of Aldermen for a final decision

**Questions may be directed to:**

Lou Taverna, City Engineer, 617-796-1020  
Shawna Sullivan, Clerk of the Board of Aldermen, 617-796-1213

RECEIVED  
Newton City Clerk  
2018 MAR 16 PM 4:34  
DAVID A. OLSEN, CMC  
Newton, MA 02459

**I. IDENTIFICATION (Please Type or Print Clearly)**

Company Name : Verizon New England Inc. Address: Verizon C/O EDS, 55 Riverdale Ave.

Bradford, MA 01835 Phone Number: 781-307-5286 Fax Number: 978-521-4419

Contact Person: E. Everette Bryan, SR/WA Title: Rights of Way Engineer

Signature *E. Everette Bryan* Date: March 2, 2018

Person filing application

If a telecommunications company, indicate how certified by the Department of Telecommunications and Energy:



type of materials to be used, construction plan including timetable for completion.  
reconstruction plan including timetable for completion.  
Place approximately 215 ft. of (2) 4" PVC underground conduit from existing Verizon Manhole #16/182 in a southerly and easterly direction to private property at 227 Walnut St. & others to provide service to new development. Work to be scheduled as soon as Dept. of Public Works will grant a st...opening permit after Moratorium is ended in Spring 2018 Work should take approximately (1) week or less to complete..

B. Include or attach a sketch to provide a visual description of the project. If plans are attached, provide:  
Title of Plan: Verizon New England Inc.  
Petition Plan No. P-2018-1A1VY1W, Date of plan; March 2, 2018

**III. PUBLIC WORKS DEPARTMENT REVIEW**

Date received by Public Works Department \_\_\_\_\_

Check One:  
Minor Project  Major Project  Lateral

(Refer to City Engineer Standard Requirements for Plans for definition of minor and major project)

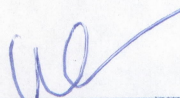
Plans Submitted:  
Certified Plot Plan  Stamped Plans

**DATE AND COMMENTS:**

**RECOMMENDATIONS:**

	Back fill trench with
All curb, sidewalk, apron	Control Density Fill CDF
or HP ramps disturbed	TYPE I-E Excavatable
shall be replaced.	+ Trench Restoration per
Will need NPD Details.	Street opening permit.
John Daglian,	Associate City Engineer

**V. RECOMMENDATION TO PUBLIC FACILITIES COMMITTEE:**

*for*   
\_\_\_\_\_  
Commissioner, Public Works

27 Mar 2018  
\_\_\_\_\_  
Date



FORM MASS. 551  
11-1-45

**PETITION FOR CONDUIT LOCATION--CITIES AND TOWNS**

To the City Council  
of the City of Newton, Massachusetts.

**VERIZON NEW ENGLAND INC.** requests permission to lay and maintain underground conduits and manholes with the wires and cables to be placed therein, under and upon the surface of the following public way or ways:-

**WALNUT STREET:** Place approximately 215 feet of underground conduit from existing Verizon Manhole # 16/182 on Northerly side to private property at No. 227 Walnut St. & others on Southerly side to provide service.

Also for permission to lay and maintain underground conduits, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes.

Plan marked – **Verizon N.E. Inc.**, No. P2018-1A1VY1W dated March 2, 2018 showing location of conduit to be constructed is filed herewith.

**VERIZON NEW ENGLAND INC.**

*Everette Bryan*

By: \_\_\_\_\_  
E. Everette Bryan, Rights of Way Engineer

Dated this 2<sup>nd</sup> day of March, 2018.



**ORDER FOR CONDUIT LOCATION**

By the City Council  
of the City of Newton, Massachusetts.

**ORDERED:**

That permission be and hereby is granted the **VERIZON NEW ENGLAND INC.** to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of the following public way or ways as requested in petition of said Company dated the 2nd day of March, 2018.

**WALNUT STREET:** Place approximately 215 feet of underground conduit from existing Verizon Manhole # 16/182 on Northerly side to private property at No. 227 Walnut St. & others on Southerly side to provide service.

Substantially as shown on plan marked – **Verizon N.E., Inc.** No. P2018-1A1VY1W, Dated March 2, 2018- filed with said petition.

Also that permission be and hereby is granted said **VERIZON NEW ENGLAND INC.** to lay and maintain underground conduits, manholes, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes.

The foregoing permission is subject to the following conditions:--

The conduits and manholes shall be of such material and construction and all work done in such manner as to be satisfactory to such municipal officers as may be appointed to the supervision of the work, and a plan showing the location of conduit constructed shall be filed with the City when the work is completed.

Said Company shall indemnify and save the City harmless against all damages, costs and expense whatsoever to which the City may be subjected in consequence of the acts or neglect of said Company, its agents or servants, or in any manner arising from the rights and privileges granted it by the City.

In addition said Company shall, before a public way is disturbed for the laying of its wires or conduits, execute its bond in a penal sum of \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_) (reference being had to the bond already on file with said City) conditioned for the faithful performance of its duties under this permit.

Said Company shall comply with the requirements of existing ordinances and such as may hereafter be adopted governing the construction and maintenance of conduits and wires, so far as the same are not inconsistent with the laws of the Commonwealth.

I hereby certify that the foregoing order was adopted at a meeting of the \_\_\_\_\_ of the City/Town of \_\_\_\_\_, Massachusetts held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
City/Town Clerk



I hereby certify that on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., at \_\_\_\_\_ a public hearing was held on the petition of the **VERIZON NEW ENGLAND INC.** for permission to lay and maintain underground conduits, manholes and connections, with the wires and cables to be placed therein, described in the order herewith recorded, and that I mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to construct the lines of said Company under said order, and that thereupon said order was duly adopted.

\_\_\_\_\_  
City Clerk

**CERTIFICATE**

I hereby certify that the foregoing is a true copy of a location order, and certificate of hearing with notice adopted by the \_\_\_\_\_ of the City/Town of \_\_\_\_\_, Massachusetts, on the day of \_\_\_\_\_, \_\_\_\_\_, and recorded with the records of location orders of said City/Town, Book \_\_\_\_\_, Page \_\_\_\_\_. This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

\_\_\_\_\_  
City/Town Clerk



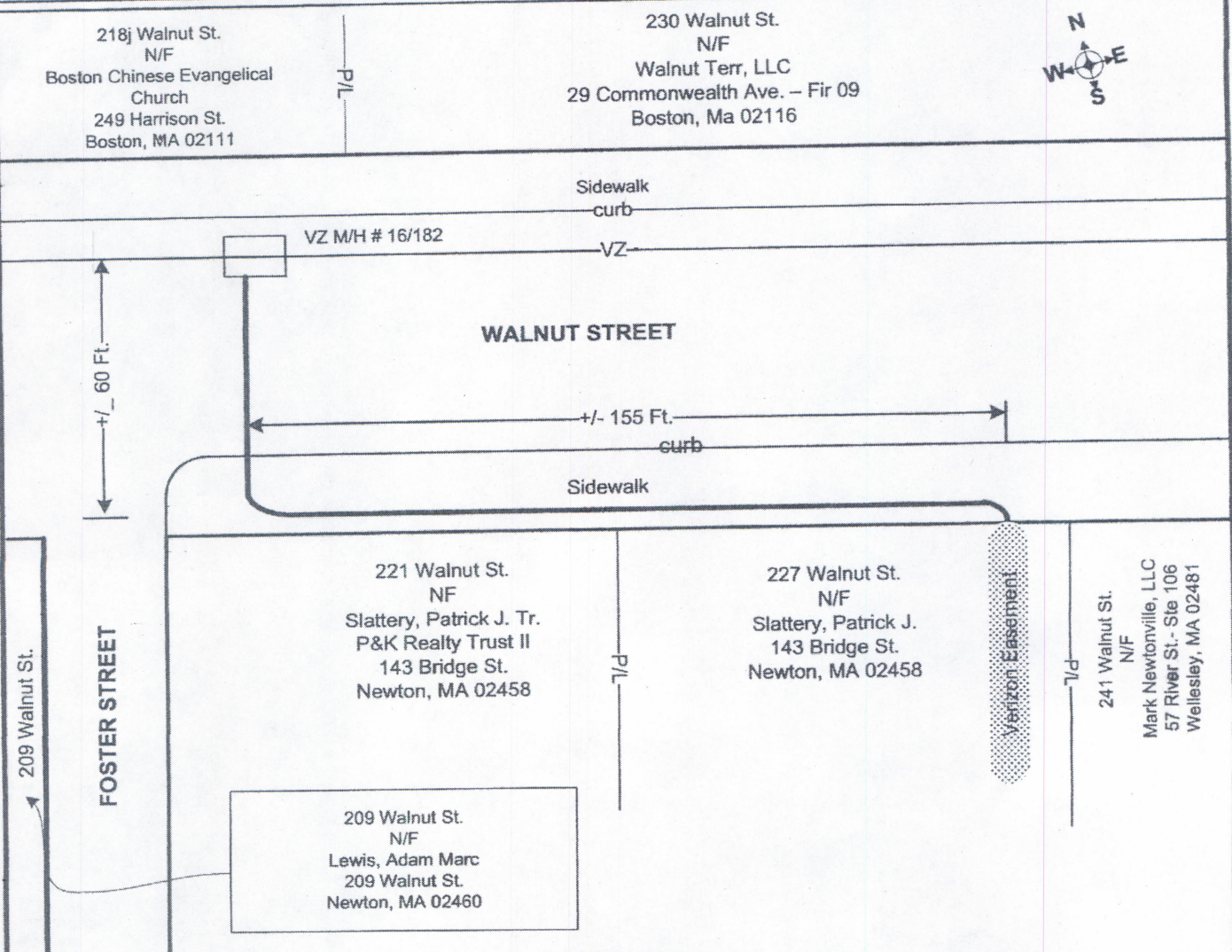
Municipality: Newton, Massachusetts

204-18

Electric-Power Co.: N/A

Date: March 2, 2018

Showing: Proposed Underground Conduit on Walnut St.



Prepared By: E. Bryan, R/W Eng.

**LEGEND**

Checked By: S. Matys, Emg.

- |  |   |
|--|---|
| ⊗ - Existing J.O. Pole to Remain*                            | ⊗ - Proposed J.O. Pole Location*                                |
| ○ - Existing Verizon N.E. Inc. S.O. Pole to Remain**         | ● - Proposed Verizon N.E. Inc. S.O. Pole Location**             |
| ⊗ - Existing Verizon N.E. Inc. Location to be Held Jointly   | ○ - Existing Power Co. Location to be Held Jointly              |
| ○ - Existing Verizon N.E. Inc. Pole Location to be Abandoned | ⊗ - Existing Power Co. Pole Location to be Abandoned            |
| — - Fence  | ⊗ - Existing J.O. Pole Location to be Abandoned*                |
| □ - Existing Verizon N.E. Inc. Manhole                       | □ - Proposed Verizon N.E. Inc. Manhole Location                 |
| ..... VZ ..... Existing Verizon N.E. Inc. Buried Cable       | —— VZ —— Proposed Verizon N.E. Inc. Conduit Location            |
| —— VZ —— Existing Verizon N.E. Inc. Conduit                  | ----- VZ ----- Proposed Verizon N.E. Inc. Buried Cable Location |

\*J.O. indicates Poles Jointly-Owned by Verizon N.E., Inc. & Power Co.  
 \*\*S.O. indicates Poles Solely-Owned by Verizon N.E., Inc. or Power Co.



# Final Label Report

SBL	Owner	Number	Street	Unit
21029 0013	MARK NEWTONVILLE LLC	14-18	BAILEY PL	
21029 0014	MARK NEWTONVILLE LLC	22	BAILEY PL	
21029 0007	WHITE BETTY	14-16	FOSTER ST	
21028 0007	GEE FA CHWI & WAH KUM	15	FOSTER ST	
21029 0006	FITZPATRICK ELLEN F	20	FOSTER ST	
21028 0004	DEUTSCH SARAH	197	WALNUT ST	
23023 0021	MILLER DONALD C TR	198-200	WALNUT ST	
21028 0005	JASPER MICHAEL S	203-205	WALNUT ST	203
21028 0005A	CHANG JEAN TR	203-205	WALNUT ST	205
21028 0006	LEWIS ADAM MARC	209	WALNUT ST	
23023 0013	BOSTON CHINESE EVANGELICAL CHURCH	218	WALNUT ST	
21029 0008	SLATTERY PATRICK J TR	221	WALNUT ST	
21029 0009	SLATTERY PATRICK J	227	WALNUT ST	
23023 0012	WALNUT TERR LLC	230	WALNUT ST	
21029 0010	MARK NEWTONVILLE LLC	241	WALNUT ST	
21029 0011	MARK NEWTONVILLE LLC	245-261	WALNUT ST	
23022 0006	HANLON PATRICIA A TR	246-254	WALNUT ST	
23023 0006	WALNUT TERRACE LLC	1-6	WALNUT TER	
23022 0007	HANDLER NEWTONVILLE LLC	823-833	WASHINGTON ST	
21029 0012	MARK NEWTONVILLE LLC	845-855	WASHINGTON ST	



## **DRAFT Wireless Service Facilities on Poles - Design Standards**

### **Intent and Purpose:**

The City seeks to balance the development of wireless service facilities in the public right-of-way that allow wireless carriers to provide robust coverage and capacity; while installing facilities that do not significantly detract from the streetscape.

These design standards are a tool to better integrate wireless facilities in a less intrusive manner in Newton's streetscape. These preferences are intended to convey design preferences that may not apply to every facility.

Common challenges to avoid when developing wireless facilities on poles include:

1. cluttered/messy cabling;
2. noisy cooling fans;
3. large/bulky/wide equipment enclosures;
4. flashing lights, decals, and stickers that are repetitive, distracting, poorly placed, or non-essential;
5. excessive and/or unnecessary pole height increases;
6. equipment in front of windows; and
7. different colors for equipment.



## Breakdown of one type of Personal Wireless Services Facility on a wooden pole at Waltham Street, Newton



### Transmitting & Receiving Antenna

Typically mounted on an extension arm directly above the top of the pole or on a sidearm extension down the pole

### Shroud

Cover or envelop to conceal the wires from view

### Equipment Enclosures

Cabinets or radio relay units which provide signal processing, akin to computers, and route power and signals through cables to the antenna. These enclosures do not transmit radio-frequency energy into the air around them.

### Electric Meter

Allows electric utility to monitor and bill wireless carrier for electrical usages

### Disconnect Switch

Smaller enclosure which allows line workers, wireless carrier, or emergency responders to shut down power to the antenna



## Location/ Pole Selection

**Intent:** To locate equipment in locations with limited effect on the streetscape and not disturb views of significance.

**Standard:**

- a. The wireless carriers shall avoid pole locations where equipment would be close to windows (especially residential windows).

**Recommendations:**

- a. The City recommends pole location be considered in the following order:
  1. arterial streets;
  2. collector streets; and
  3. local street.
    - a. on property lines, between houses;
    - b. in traffic islands;
    - c. corners; and
    - d. intersections.
- b. The areas of special consideration:
  1. village centers;
  2. historic districts; and
  3. in front of historically/architecturally significant buildings.

## **Equipment on Decorative Lighting**

- a. No equipment shall be on decorative lighting.
- b. The Planning Department is working to find if a standard can be set for wireless facilities on decorative lighting.



ABOVE: Example of wireless facility on a decorative pole, Museum of Science, Cambridge.

### **Equipment on Poles in Historic District**

Local Historic Districts require review of exterior alterations for their appropriateness to the building and/or district. Even small repairs and replacements such as windows and siding require review of the Preservation Planner and/or the District Commission. At present, there are four local historic districts in Newton: **Newton Upper Falls, Chestnut Hill, Newtonville, and Auburndale.**



**Equipment on Existing Concrete Utility Poles**

City of Newton will not allow the installation of new wireless equipment on existing concrete utility poles owned by the city of Newton.

City of Newton has no records of the technical specifications regarding the design of the concrete light pole, including the top and bottom diameter of the pole, the concrete mix design and the strength it was designed for. We do not have the date of installation. Note that the base of the poles has been subject to roadway salting operations since it was installed.

City of Newton will work with the wireless companies to install a new pole and will work with the wireless companies to create a design standard for these poles.

DRAFT

## Recommended Design Preferences:

### **1. Equipment Enclosure, Placement, and Orientation**

**Intent:** To camouflage the equipment enclosures on the pole, so that it blends with the surroundings.

**Standards:**

- a. The equipment enclosures shall be long and narrow, nearly the same width as the pole.
- b. The equipment shall face away from nearby residential windows, and/or the primary travel direction.
- c. The equipment enclosures shall not extend into the roadway.
- d. The equipment enclosures must be well maintained and not have any rusted elements.
- e. All the equipment shall be stacked close together and aligned on the same side of the pole.
- f. Wide offsets (more than 4 inches) of equipment enclosure brackets from the pole shall be avoided.

**Recommendations:**

- g. It is preferable to have one equipment box per pole.
- h. If a long rectangular disconnect switch is used, it is preferable to rotate the enclosure, so the elements can be stacked closer together on the pole.
- i. Avoid wide offsets (more than 4 inches) of equipment enclosure brackets from the pole.





ABOVE: Preferred use of 1 long and lean equipment enclosure.

However, lack of a uniform paint color and lack of alignment is disfavored.

## 2. Electric meter and Disconnect Switch

**Intent:** The intent is to camouflage the electric meter and disconnect switch with the pole, so that it blends in with the surroundings.

### **Standards:**

- a. The disconnect switch shall be stacked either above or below the meter, instead of attached to the side of the meter.
- b. The narrowest electric meter and disconnect switch available shall be used.
- c. The use of wide electric meters shall be avoided.

### **Recommendation:**

- d. A line drop (no electric meter enclosure) is preferable, if allowed by the utility company.





ABOVE: Preferred use of disconnect switch stacked either above or below electric meter. However, lack of a uniform paint color and alignment is disfavored.

### 3. Cabling

**Intent:** To minimize the appearance of excess cable to the greatest extent possible.

**Standards:**

- a. Installers shall use shrouds, risers, or conduit, to reduce the appearance of cluttered or tangled cabling.
- b. The installers must remove excess service cable slack or loops.
- c. The cables shall be neat and tidy.

#### 4. Paint

**Intent:** For antennas, brackets, and cabling to match the color of the equipment and the pole.

**Standards:**

- a. Antennas, brackets (mounting) and cabling must match the color of the equipment and the pole.
- b. A durable and graffiti-resistant paint must be used.
- c. The equipment enclosures, meter, disconnect switch, and antenna must be well maintained, including regular painting, and no rusted elements.
- d. Darker matte colors shall be used.



ABOVE: Disfavored to have colors of the equipment that do not match the pole and are significantly darker than the color of the pole.

However, preferred use of long and narrow equipment enclosure and meter.



## 5. Antenna and Antenna Placement

**Intent:** To use antenna, that do not call attention to themselves, and are near invisible.

### Standards:

- a. Antenna placements shall not obstruct light, air, or views from adjacent windows.
- b. Single element side-arms must be used instead of dual parallel side-arms. The cylindrical antennas must be utilized in-lieu of panel antennas.
- c. If using a GPS antenna, it must be integrated within the same cylindrical enclosure as the main antenna.

### Recommendations:

- d. Consider using antennas with electronic tilt mechanisms that could reduce the need for bulky mechanized tilt brackets.
- e. Top-mounted and side mounted antennas each offer various advantages and challenges from both a radio-frequency (RF) and visibility perspective; requiring a case by case review. For example, a top-mount antenna with a very tall extension arm may look out of character in a low lying residential neighborhood, but a top mount antenna that is relatively narrow and nearly flush with the top of the pole may offer a very minimal profile, that is appropriate in areas with taller buildings or trees. In all cases, it is preferable to have a less noticeable antenna.
- f. For top-mounted antennas, consider using a shroud around the base of the antenna, especially for antenna models with four or more cabling ports, as cable systems without a shroud at the base of the antenna, can appear cluttered. If a shroud cannot be used, neatly arrange and secure cabling.
- g. For side-mounted antennas, consider using an arm that features flanges/channels so that cabling and passive RF gear can be better hidden from view.



ABOVE: Preferred top-mounted antenna design with shroud cap below the actual antenna.

Disfavored bulky equipment enclosure.

**6. Logos, Decals, Flashing Lights, Radio-frequency (RF) Warning Sticker, and Node ID**

**Intent:** To not draw attention to the equipment.

**Standards:**

- a. Equipment that does not feature flashing lights which may be visible to the public shall be used.
- b. Any unnecessary equipment manufacturer decals shall be removed or painted and fill-in any visibly depressed manufacturer logos on equipment boxes.
- c. The smallest and lowest visibility radio-frequency warning sticker shall be utilized.
- d. The stickers that are more muted (example tan) or the same color as the equipment or the pole but with white color lettering shall be utilized.





ABOVE: Disfavored presence of multiple stickers and manufacturer logos, which should be removed or painted over

## 7. Pole Height Increases

**Intent:** The intent is to avoid excessive and/or unnecessary pole height increases.

### **Standards:**

- a. Any excessive and/or unnecessary pole height increase shall be avoided.
- b. The total height from the ground to the top of the antenna shall not exceed 40 feet and all the control and operating equipment associated with the antenna can be mounted at a height no less than 20 feet above the ground.
- c. The maximum height increase of a pole shall be 4 feet above the height of the pole.

## 8. Cooling Fans

**Intent:** To limit noise from the equipment.

### **Standard:**

- a. Passive cooling system shall be used in areas close to residences or windows.

### **Recommendation:**

- b. If a fan is needed, consider using longer enclosures with sufficient space to allow for additional airflow and a different cooling fan with a lower noise profile. In some instances, a larger fan often may have a lower noise profile, due to fewer revolutions per minute.

DRAFT DATED 3.28.2018

**APPLICATION FORM**

**GRANT OF LOCATION PETITIONS FOR ATTACHMENT OF WIRELESS COMMUNICATIONS FACILITIES TO UTILITY POLES LOCATED IN PUBLIC WAYS AND FOR CONSTRUCTION OF NEW POLE PRIMARILY FOR WIRELESS COMMUNICATIONS FACILITIES ATTACHMENTS**

PLEASE PROVIDE AN ORIGINAL AND \_\_\_\_ COPIES OF YOUR APPLICATION, INCLUDING ALL ATTACHMENTS.

IF THE APPLICATION IS DEEMED INCOMPLETE BY THE CITY, PROVIDE THE NAME, ADDRESS AND OTHER CONTACT INFORMATION OF THE PERSON WHO SHOULD RECEIVE NOTICE OF INCOMPLETNESS FROM THE CITY

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

**APPLICANT CONTACT INFORMATION**

Name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Certification(s) by the Applicant that (1) the proposed work is authorized by the owner of the utility pole or, if not yet authorized, a commitment that no work will be performed until after it has provided to the Department of Public Works a pole owner authorization for the specific pole location and (2) the Applicant is authorized to make this Application, are attached as **Attachments A-1 and A-2.**

**CONTACT PERSONS REGARDING APPLICATION**

Name, address, telephone number and email address of the following involved parties:



DRAFT DATED 3.28.2018

a. Engineering consultant \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Legal Representative of Applicant or Principal of Applicant \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Owner(s) of the Utility Pole(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Owner of the Proposed Wireless Communications Facilities and/or New Pole Primarily for Wireless Communications Purposes; if different than user, please identify the user and describe the business relationship and agreement between the owner and user  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e. Other Representative(s) of the Owner of the Proposed Wireless Communications Facilities  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**POLE LOCATION [IV.B STANDARDS]**

Address of Utility Pole(s) (include the street and street number, street intersection, utility pole number(s) as applicable); (2) Residential area; (3) scenic way; (4) village entrance; (5) historic district

DRAFT DATED 3.28.2018

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**DESCRIBE THE POLE LOCATION SELECTION PROCESS. IDENTIFY OTHER LOCATIONS CONSIDERED AND THE REASONS FOR SELECTING THE PROPOSED POLE LOCATION**

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**NARRATIVE DESCRIPTION OF THE PROPOSED WIRELESS COMMUNICATIONS FACILITIES. SPECIFY EACH COMPONENT.**

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Is the proposed location directly in front of a residence? \_\_\_\_\_

If so, provide all alternative pole locations that were considered (include the street and street number, street intersection, utility pole number(s) as applicable)and explain why they were not selected: \_\_\_\_\_

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DRAFT DATED 3.28.2018

What is the distance between the proposed pole location and residence that it would front?

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

**POWER SUPPLY; UNDERGROUND REQUIREMENTS-DESCRIBE POWER SUPPLY REQUIREMENTS AND WHETHER CONENCTION TO POWER SUPPLY WILL BE AERIAL OR UNDERGROUND. IF UNDERGROUND, DESCRIBE THE CONSTRUCTION WORK REQUIRED.**

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

**CHECKLIST**

NUMBER OF ATTACHMENTS ON THE POLE [STANDARDS IV.G.1] \_\_\_\_\_

WHETHER APPLICANT WILL AGREE NOT ADD TO OR EXPAND THE DIMENSIONS OF ITS INITIAL WIRELESS COMMUNICATIONS FACILITIES \_\_\_\_\_

WHETHER APPLICANT WILL AGREE NOT TO CONSIDER THE POLE AND ITS ATTACHMENTS AS A BASE STATION UNDER 47 U.S.C. § \_\_\_\_\_

COMPLIANCE WITH ADA REQUIREMENTS [STANDARDS, IV.G.6] \_\_\_\_\_

SURFACE AREA OF ANTENNA [STANDARDS, IV.G.7.a] \_\_\_\_\_

SIZE OF ABOVE GROUND WIRELESS COMMUNICATIONS FACILITIES (COMBINED VOLUME) [STANDARDS, IV.G.7.B] \_\_\_\_\_

LOWEST POINT OF WIRELESS COMMUNICATIONS FACILITIES ABOVE GRADE [STANDARDS, IV.G.7.c.] \_\_\_\_\_

Height and dimensions of Utility Pole: [STANDARDS, IV.G.7.d.]

\_\_\_\_\_-----  
\_\_\_\_\_

Height and dimensions of antenna facilities located at the pole top or other point of attachment and overall height of the Utility Pole as modified by proposed wireless communications facilities: \_\_\_\_\_

DRAFT DATED 3.28.2018

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Height of other Utility Poles within 150 feet of the proposed location: \_\_\_\_\_

COLOR [STANDARDS, IV.G.7.e.]  
\_\_\_\_\_  
\_\_\_\_\_

SHIELDING OF WIRING [STANDARDS, IV.G.7.f.]  
\_\_\_\_\_  
\_\_\_\_\_

MOUNTING [STANDARDS, IV.G.7.g.]  
\_\_\_\_\_  
\_\_\_\_\_

ANTENNA PANEL COVERING [STANDARDS, IV.G.7.h.]  
\_\_\_\_\_  
\_\_\_\_\_

SIGNAGE [STANDARDS, IV.G.7.i.]  
\_\_\_\_\_  
\_\_\_\_\_

WIRING AND CABLING [STANDARDS, IV.G.7.j.]  
\_\_\_\_\_  
\_\_\_\_\_

GROUNDING [STANDARDS, IV.G.7.k.]  
\_\_\_\_\_  
\_\_\_\_\_

GUY WIRES REQUIRED [STANDARDS, IV.G.7. l]  
\_\_\_\_\_  
\_\_\_\_\_

DRAFT DATED 3.28.2018

WIND LOAD REQUIREMENTS (POLE OWNER, SAFETY CODE) AND METHOD OF TESTING  
[STANDARDS, IV.G.7.m.] \_\_\_\_\_

OBSTRUCTIONS [STANDARDS, IV.G.7.n.] \_\_\_\_\_

TRAFFIC SAFETY REQUIREMENTS [STANDARDS, IV.G.7.o.] \_\_\_\_\_

LIGHTING [STANDARDS, IV.G.7.p.] \_\_\_\_\_

SECURITY MEASURES [STANDARDS, IV.G.7.q.] \_\_\_\_\_

NOISE [STANDARDS, IV.G.7.r.] \_\_\_\_\_

VIBRATION [STANDARDS, IV.G.7.s.] \_\_\_\_\_

RFE [STANDARDS, IV.C] \_\_\_\_\_



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NO INTERFERENCE WITH OTHER USERS OF THE POLE [STANDARDS, IV.G.7.t.]

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ACCEPTANCE OF GENERAL STANDARDS REQUIREMENTS [STANDARDS, IV.G.8.]

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COMPLIANCE ISSUES

Identify any requirement or condition in the Standards with which the Applicant will not or cannot comply and provide a complete explanation why it cannot or will not comply:

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**REMINDER: ALL RESPONSES SHALL BE SUPPORTED BY CERTIFIED TO SCALE PLANS, SUBMITTED AS ATTACHMENT C.**

**ADDITIONAL REQUIRED DOCUMENTS AND INFORMATION TO BE INCLUDED AS PART OF APPLICATION**

Provide as **Attachment D** a copy of the applicable FCC license and any other evidence of authority to place wireless communications facilities and/or poles in the public ways under Massachusetts General Laws Chapter 166, Section 21.

Provide as **Attachment E** the license agreement(s) under which the Applicant has access to the utility poles to which it proposes to attach or a certification from pole owners that they have entered into aerial attachment agreements with the applicant which cover the City.

Complete **Attachment F** ("Optional Checklist for Local Government to Determine whether a Facility is Categorically Excluded") to verify that the wireless facilities with the proposed modification will be in compliance with the FCC's radio frequency ("RF") emissions regulations.

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If not categorically excluded, a complete RF emissions study is required to verify compliance with FCC RF emissions regulations.

Provide as **Attachment G** a structural analysis of the utility poles, stamped by a professional engineer registered in the Commonwealth of Massachusetts, indicating that they can accommodate the proposed wireless communications facilities and comply with all applicable engineering and construction standards. If the structural analysis will be conducted by a pole owner, a pole owner certification must be submitted to the Commissioner of Public Works as a **condition** for the grant of location.

Commented [ADM1]: DPW or ISD?

Provide as **Attachment H** the Tax Attestation pursuant to Massachusetts General Laws, Chapter 62C, Section 49A.

Provide a mock-up of the proposed wireless communications facilities at the proposed location(s) as **Attachment I**.

**PROVIDE ANY OTHER INFORMATION THAT THE APPLICANT CHOOSES TO SUBMIT. EXAMPLES MAY INCLUDE BUT ARE NOT LIMITED TO (1) A DESCRIPTION OF TESTS CONDUCTED AND THE RESULTS OF SUCH TESTS WHICH DEMONSTRATE THE NEED FOR THE PROPOSED FACILITIES FOR COVERAGE AND/OR CAPACITY IMPROVEMENTS IN THE PROPOSED LOCATION; (2) A COMPLETE LIST OF ALL ALTERNATIVE SITES CONSIDERED AND WHY THEY WERE RULED OUT; AND (3) A FACTUAL EXPLANATION WHY THE PROPOSED LOCATION IS THE LEAST INTRUSIVE LOCATION.**

**APPLICATION FOR OTHER REQUIRED PERMITS**

Provide Applicant’s certification as **Attachment J** that it shall not commence any construction until it has received any necessary permits (including but not limited to building, street opening and/or electrical permits).

**SIGNATURE OF APPLICANT**

\_\_\_\_\_  
Name and Title and any Business Name

\_\_\_\_\_  
Name of Principal or Client of Applicant

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\_\_\_\_\_

In whose name the permit should be granted

\_\_\_\_\_

Date signed:

\_\_\_\_\_

DATE OF RECEIPT OF APPLICATION [TO BE ADDED BY THE CITY] \_\_\_\_\_

DATE OF EXPIRATION OF 90 or 150 DAY PERIOD RUNNING FROM THE DATE OF APPLICATION \_\_\_\_\_

AGREED UPON EXTENSION OF THE 90 OR 150 DAY PERIOD EXPIRATION DATE UNTIL \_\_\_\_\_

\_\_\_\_\_

Agreed to by Applicant

\_\_\_\_\_

Agreed to by City

\_\_\_\_\_

**NOTE: THE APPLICANT AND THE CITY MAY AGREE IN WRITING TO AN EXTENSION OF THE APPLICABLE REVIEW PERIOD. IN ADDITION, THE RUNNING OF THE TIME PERIOD FOR REVIEW OF THIS APPLICATION MAY BE TOLLED BY INCOMPLETENESS OF THE APPLICATION, PROVIDED THAT THE CITY HAS TIMELY NOTIFIED THE APPLICANT OF THE MISSING INFORMATION OR DOCUMENT CAUSING THE INCOMPLETENESS IN ACCORDANCE WITH FCC REGULATIONS AND CITY GUIDELINES.**

**RIGHT TO APPEAL**

The Applicant's right to appeal is governed by federal law.



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## **CITY COUNCIL GRANT OF LOCATION PROCEDURES AND STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES TO BE LOCATED IN PUBLIC WAYS**

### **I. INTRODUCTION**

The City Council regulates the placement of wireless communications facilities in the public ways pursuant to municipal authority under Massachusetts General Laws Chapter 166, Sections 21 *et seq.*, other applicable Massachusetts Laws, City Code Section 23, and applicable federal law, including 47 U.S.C. §§253 and 332(c)(7).

The public ways in Newton are a uniquely valuable resource, closely linked with the City's residential character and natural beauty. Many public ways have been enhanced by the planting and maintenance of public shade trees.

The City Council wishes to preserve and protect community safety and aesthetics in its residential neighborhoods and village centers, consistent with its streetscape design principles. Many residences have a small amount of frontage between the residence and the public ways. Public ways, including sidewalks, must remain accessible and safe under ADA and traffic standards. The City has several scenic roadways. It also has historic districts and historic buildings. Aesthetics and compatibility with immediate surroundings are important considerations in reviewing future use of the public ways.

A competing consideration is a public interest in maximizing wireless service coverage and enabling wireless service capacity that is adequate to meet the needs of the City (including public safety communications needs), its residents and businesses. Further, the City Council recognizes that its authority to regulate the use of the public ways is subject to and limited by both state and federal laws.

The potential for proliferation of wireless communications facilities attachments to utility poles in public ways, due, in part, to recent changes in federal law, evolving wireless technology, and demand for wireless services has created a significant concern about degradation of the character of residential areas, village centers, scenic roads and historical districts, and adverse impacts upon public safety and well-being of City residents and other users of the public ways.

The City Council also wishes to limit noise and vibration levels that may be associated with some types of wireless communications facilities. The City Council cannot base grant of location orders upon radio frequency emissions from wireless communications facilities in the public ways, except that it may require proof of continuing compliance with FCC requirements.

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The City Council therefore finds it necessary and desirable to provide for reasonable regulation and orderly deployment of wireless communications facilities in the public ways. Accordingly, it adopts these Wireless Grant of Location Procedures and Standards (the "Procedures and Standards").

## **II. SCOPE OF THESE PROCEDURES AND STANDARDS**

These Procedures and Standards govern the permitting of (1) wireless communications facilities attachments to existing or replacement utility poles which are located in the public ways and which do not have any pre-existing wireless attachments; (2) wireless communications facilities attachments to existing or replacement poles which are located in the public ways and which do have pre-existing wireless attachments, but do not satisfy the requirements under 47 U.S.C. §1455 and related Federal Communications Commission ("FCC") regulations; and constructing a new pole in a public way for purposes of providing wireless communications services. A party seeking to attach to a City-owned pole also will be required to enter into a license agreement with the City and comply with its terms and conditions.

A separate application form with instructions has been prepared for "eligible facilities requests", as defined under 47 U.S.C. §1455 (and related FCC regulations), that involve a pole (1) located in a public way and (2) classified as a "base station" under 47 U.S.C. §1455. If an applicant seeks approval pursuant to 47 U.S.C. §1455 and related FCC regulations, the Applicant must submit a separate application in accordance with related instructions. If that application is denied, the applicant may submit a new grant of location application governed by these Procedures and Standards.

## **III. GRANT OF LOCATION APPLICATION PROCEDURES**

### **A. Who May Apply**

An applicant must demonstrate that it is qualified and eligible under G.L.c.166, §21 to place its facilities on utility poles located in the public ways. A Statement of Business Operations filing with the Massachusetts Department of Telecommunications and Cable, if any, should be provided, and a link to existing tariffs, if any, should be supplied. Where applicable, current records of any FCC license to offer service should be provided. The applicant should demonstrate that its proposed facilities will be used to carry out the telecommunications services covered by its Statement of Business Operations and/or FCC license. Also, the applicant should provide evidence of its authority to conduct in Massachusetts the business carried out through the proposed facilities. Carrier neutral applicants shall provide evidence that they have a contract with at least one wireless service provider which will make use of the proposed facilities or that they will accept a condition that they shall not construct proposed facilities unless they have first

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submitted evidence that they have a contract with at least one wireless service provider which will make use of the proposed facilities.

**B. Application Filings**

Applicants shall use the application form provided by the Commissioner of Public Works. This form shall be made available through the Commissioner, City Clerk or on the City website. Use of this application form is required to best assure timely review of the completeness of the application.

Although not required to do so, applicants are encouraged to schedule a pre-application meeting with the City Engineer, Wire Inspector, Fire Department, IT Department and Planning and Development Department to (1) describe their proposed location, Wireless Communications Facilities and plans; (2) identify potential issues; and (3) address questions. If a pre-application meeting is requested, information regarding the proposed location, Wireless Communications Facilities and plans should be submitted to the Commissioner of Public Works at least seven (7) days before the scheduled pre-application meeting. An applicant shall not submit Applications for more than three (3) separate locations at the same time. A separate Application shall be submitted for each separate location.

**C. Copies of Application**

An Application shall be filed with the City Clerk and the City Clerk will date stamp the application. Applicants are encouraged to obtain a date stamped copy of the application for their own records.

At the time of filing its Application, the Applicant shall submit five (5) copies of the complete application to the Commissioner of Public Works. The application shall be submitted (1) in paper format, (2) in PDF format and (3) in a digital format compatible with the City's systems. The Commissioner will make copies available other City departments. Applicants will be notified if an Application should be filed through the City's website and a link will be provided by the City.

**D. Incomplete Applications**

Each application will be logged in by the City Clerk to establish the filing date. The City will follow procedural requirements for incomplete applications and any continued incompleteness established by the FCC in its orders regarding applications to locate wireless communications facilities in the public ways, subject to 47 U.S.C. §332(c)(7). Formal notice of initial incompleteness shall be given by the City Clerk within thirty (30) days of the application filing date and will specifically identify: (1) all missing information; and (2) the code provision,



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application instruction or otherwise publicly stated guideline that requires the information to be submitted.

**E. Pole Owner Permission to Attach to Utility Pole**

The applicant shall submit evidence of pole owner permission to attach its facilities to the specific pole or poles included in its application (if any). If such evidence is not currently available, as a condition of any grant of location, the applicant must provide to the City, prior to the applicant's commencement of construction of the attachments, such evidence of permission.

**F. Tax Attestation**

The applicant shall complete the tax attestation which is part of the grant of location application.

**G. Application Fees**

At the time of filing its Application, the Applicant shall submit the Application Fee specified in City Code Section 17-3. These Procedures and Standards may be revised to reflect any change in the amount of the Application Fee under the City Code. The Application Fee is listed in the Application Form.

**H. Peer Review**

The Public Facilities Committee shall determine whether a peer review of an Application is needed in order for it to fully evaluate the applicant's proposal. A peer review may be conducted at the applicant's expense, as authorized under state statute, City ordinance and City Council regulations.

**I. Initial Review of Application**

The City Engineer, Commissioner of Public Works, a representative of the Planning and Development Department, and as needed, representatives of the Fire, Inspectional Services and IT Departments, will conduct an initial review of the Application in order to determine whether it is complete as provided for above. If the Application is found to be complete, the Commissioner of Public Works and the Planning and Development Department shall submit to the Public Facilities Committee a written report with recommendations within thirty (30) days of the Application filing date. If other departments also have reviewed the Application, they shall submit such written reports and recommendations. These written recommendations shall be typed, dated and provided in letter or memo format. In the event that no initial review is conducted or that such review is not completed within such thirty (30) day period, the Application shall be deemed complete. If an initial review has been completed, the applicant

**Commented [a1]:** This seems redundant. Should reports be filed by the departments with the City Clerk, who then takes the next steps toward a hearing? Applicant should receive the reports.

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should submit to the City Clerk's office a supplement to its Application consisting of the reports and recommendations of the Commissioner of Public Works, the Planning and Development Department and, if necessary, other departments which reviewed the Application.

**J. Notice of Public Hearing**

Notice of the public hearing on a grant of location application must be provided in accordance with G.L.c.166, §22 and Chapter 23 of the City Code.

**K. Modification or Supplementation of Application**

The applicant shall disclose at least forty-eight (48) hours prior to the public hearing any modification(s) of or supplementation to its proposal as submitted. The City may determine that proposed modifications are so substantial that the public notice of the Application is inadequate and that submission of a new grant of location application is required. Applications that are found incomplete must be supplemented as described above (See Incomplete Applications).

**L. Public Hearing and Hearing Record**

The City Council Public Facilities Committee will conduct a public hearing on the Application. The hearing record will include, at a minimum, (1) the applicant's Application, including its payment(s) of the application fees and any peer review fee(s); (2) written reports on the Application, if any, submitted by the City Engineer, Commissioner of Public Works and any other City departments; (3) a transcript, audiotape or videotape of the public hearing (the applicant also is free to record the public hearing); (4) proof of notice of the public hearing; (5) evidence that parties required to be notified of the public hearing were timely and properly notified; (6) any supplemental written materials supplied by the applicant at least forty-eight (48) hours prior to the public hearing; (7) materials presented by any member of the public, City officials or a City peer reviewer at the public hearing; and (8) any additional materials provided by the applicant at the request of the Public Facilities Committee. Materials may include, but are not limited to photographs, mock-ups, videos or written documentation.

If the applicant intends to seek an exception from any City requirement(s) on the ground that any City requirement(s) which regulate of the placement, construction and modification of personal wireless services facilities would: (1) prohibit or have the effect of prohibiting the provision of personal wireless services; or (2) unreasonably discriminate among providers of functionally equivalent services, the applicant should submit information in support of its position in its application, but in no event later than forty-eight (48) hours prior to the public hearing.

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**M. Written Decision and Statement of Reasons**

The Public Facilities Committee will vote on its recommended action, provide a statement of reasons for its recommendations and support its recommendations by reference to the hearing record. It shall submit a report on its vote to the City Council. The City Council will issue a written decision in accordance with the requirements of state and federal law. The City Council may adopt and incorporate by reference the recommended action and statement of reasons provided by the Public Facilities Committee or modify the same, supported by a statement of reasons and reference to the hearing record in support of any modification. In the event that the City Council issues its decision after the expiration of any applicable federal “shot clock” date and in the absence of a tolling agreement with an unexpired term as of the date of the City Council’s decision, the City Council shall provide a statement of reasons why additional time was needed to review and act upon an Application.

An applicant shall be permitted to submit proposed findings of fact and a proposed City Council order based upon the hearing record no later than seven (7) days after the close of the public hearing conducted by the Public Facilities Committee; provided, however that if the exercise of this step would delay a final decision by the City Council, such permission is conditioned upon the applicant’s execution of a tolling agreement not to exceed thirty (30) days.

**N. Time Frame for Decisions**

Given public notice and hearing requirements, the initial review by the City Engineer, Commissioner of Public Works and other departments, public hearings conducted by the Public Facilities Committee, a separate final hearing and decision by the City Council and other factors that may affect the amount of time reasonably necessary to render a final decision, the City encourages voluntary tolling agreements to extend the time frame for the issuance of a final decision.

If it becomes apparent that a final decision will not likely be rendered during a period of time presumed reasonable under federal law, the Applicant is encouraged to enter into a written agreement (a “tolling agreement”) with the City to extend the period of time for the City Council’s issuing a formal decision. The presumed reasonable time frame for final decisions under federal law is a rebuttable presumption. The City Council may have valid reasons for needing more time to reach a final decision on a given application. In any such case where more time is needed and there is no tolling agreement, the Public Facilities Committee and/or City Council shall state in writing or as part of the hearing record the reasons why more time is needed to issue a final decision on an Application.



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**O. Appeals and Reconsideration**

An applicant may petition the City Council for reconsideration within thirty (30) days after receipt of a final decision. The City Council may issue a decision on a petition for reconsideration within thirty (30) days of the filing of the petition for reconsideration. A failure of the City Council to act on the petition for reconsideration within such thirty (30) day period shall be deemed a denial of such petition. Any appeals from a final decision by the City Council shall be governed by applicable law.

**P. Acceptance of Grant of Location Order with Conditions**

Grants of location must be accepted by the applicant as required under Massachusetts General Laws Chapter 166, Section 22. The applicant shall pay the fee for recording the grant of location order as required under the City Code.

**IV. SUBSTANTIVE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES IN PUBLIC WAYS**

These standards provide objective, uniform criteria for the review of grant of location applications for the placement of Wireless Communications Facilities in the public ways (1) by attachment to a utility pole that has no pre-existing wireless attachments; (2) by attachment to a utility pole that has pre-existing wireless attachments where the application does not qualify or has not been submitted for review under 47 U.S.C. §1455 and related FCC regulations; and (3) by attachment to a new pole constructed for communications uses.

**A. Definitions**

The following terms are defined for the purposes of these Guidelines as follows:

- (1) **Alternative Antenna Structure** means an existing pole or other structure that can be used to support an antenna and is not a Utility Pole or City-owned Infrastructure. Except as otherwise provided for by these Regulations, the requirements for an Alternative Antenna Structure shall be those required in Section 30-18A of the City Code (the wireless zoning ordinance).
- (2) **Antenna Structure** means any structure designed to specifically support an antenna, and/or any appurtenance mounted on such a structure or antenna.
- (3) **Applicant** includes any person or entity submitting an application to install a Personal Wireless Communications Facility.

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- (4) **Distributed Antenna System** means a network of spatially separate antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.
- (5) **Monopole** means a structure composed of a single spire, pole or tower used to support antennas or related equipment and the primary purpose of which is to serve as a support structure for wireless communications facilities.
- (6) **Wireless Communications Facility** means a structure, antenna, pole, tower, equipment, accessory equipment and related improvement used, or designed to be used, to provide wireless transmission of voice, data, images or other information, including but not limited to, cellular phone service, personal communications service, paging and Wi-Fi service.
- (7) **Small Cell Antennas** means an antenna either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area.
- (8) **Tower** means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. Except as otherwise provided for by these Regulations, the requirements for a Tower and associated antenna facilities shall be those required in Section 30-18A of the City Code (the wireless zoning ordinance).
- (9) **Utility Pole** means an upright pole used to support electric cables, telephone cables, telecommunications cables and related facilities owned and maintained by an electric distribution company or incumbent local exchange carrier which is regulated by the Massachusetts Department of Public Utilities and/or the Massachusetts Department of Telecommunications and Cable. A Utility pole does not include City-owned Infrastructure.
- (10) **Exception** means a grant of relief by the City Council from specific limitations in these Standards.
- (11) **City-owned Infrastructure** means infrastructure including, but not limited to, streetlight poles and traffic signals owned, operated and maintained by the City and located in a public way.
- (12) **Wi-Fi Antenna** means an antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

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**B. Determination of Site Locations**

1. **Analysis of Installation Request-** The City Council determines the location of all Wireless Communications Facilities to be located in or on public ways. The City Council will not unreasonably discriminate among providers of functionally equivalent services. The City Council will not take action that prohibits or has the effect of prohibiting (a) the provision of personal wireless service or (b) the ability of any entity to provide any interstate or intrastate telecommunications service.
2. **Sensitive Locations** – Applicants are encouraged to avoid pole locations that would be (a) directly in front of, and in close proximity to, a residence, (b) on a scenic road, (c) in close proximity to an historic building, (d) in an historic district (see below) or (e) at an entry point to a village center. Applicants are encouraged to use existing Utility Poles which do not support existing Wireless Communications Facilities.
3. **Historic Districts-** Applicants are encouraged to avoid pole locations within an historic district. Applicants shall disclose whether a proposed location is within an historic district and what, if, any certificates are needed from an historic district commission. If a certificate is required but not yet issued, a grant of location will be conditioned upon receipt of the required certificate.
4. **Underground Utility Districts-**Wireless Communications Facilities shall not be permitted in an underground utility district and shall be subject to removal pursuant to the procedures established under M.G.L. Chapter 166, §§22A-22N.
5. **Locations Outside of Public Ways-** The placement of Wireless Communications Facilities outside of the public ways is subject to review and approval under City Zoning Ordinance.

**C. RF Emissions and Other Monitoring Requirements**

In accordance with federal law, the City Council shall not regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions (“RFE”) to the extent that such facilities comply with the FCC’s regulations concerning such emissions. The applicant shall provide proof that the proposed wireless service facilities will comply with FCC RFE regulations. In addition, the applicant will be required to provide to the Commissioner of the Public Works annual emissions testing results in order to establish continuing compliance with FCC RFE regulations.

**D. Additional Approval Required; Activity that does not Require Approval**

Any increase in the number or height of Wireless Communications Facilities components after construction shall be subject to City Council approval in accordance with applicable law.

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No City Council approval is required for renewing, repairing or replacing the Wireless Communications Facilities as long as they do not increase the height, number or dimensions of the existing Wireless Communications Facilities or decrease ground clearance below the required level. In the event that after a grant of location order and before construction, the position of a Wireless Communications Facilities component needs or is required to be moved, the applicant shall submit any revisions to its plans to the Commissioner of Public Works, the Fire Department and the Inspectional Services Department, which may authorize the change so long as the change does not reduce ground clearance, or increase the height, dimensions or number of the Wireless Communications Facilities. No pole shall be removed or replaced without the written approval of the Inspector of Wires, as proved for under City Code Section 23-9.

#### **F. New Poles**

Applications for the construction of new poles are discouraged. Existing Utility Poles should be utilized where available. Any new pole proposed for wireless communications use in excess of 40 feet shall be considered a Monopole and prohibited in the public ways unless an exception is granted by the City Council. An applicant proposing to construct a new pole for wireless communications use must demonstrate that it (or the party which would use the new pole) does not have the option of attaching to an existing Utility Pole.

#### **G. General Standards**

All Wireless Communications Facilities that are located within the public ways shall be designed and maintained so as to minimize visual, noise and other impacts on the surrounding community and to avoid any obstruction of the use of public ways, including sidewalks. In order to assist Applicants, the City Council has provided design guidelines which shall be considered in reviewing applications. The design guidelines shall be consistent with these Standards and may provide details, descriptions and examples of acceptable Wireless Communications Facilities attachments, including visual depictions. The design guidelines will be developed by the Commissioner of Public Works and the Planning and Development Director for review by the City Council. In the event of any conflict between the design guidelines and these Standards, these Standards take precedence over the design guidelines.

- (1) Number Limitation-** Unless otherwise authorized by the City Council for good cause shown, only one personal wireless service provider or DAS provider shall be allowed to own, attach and/or operate Wireless Communications Facilities to a single Utility Pole. This provision does not prohibit a carrier neutral host from



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allowing one or more wireless service providers to use its Wireless Communications Facilities.

- (2) **City-Owned Infrastructure-** No personal wireless service or telecommunications service facilities shall be mounted to City-owned infrastructure located in the public ways, including but not limited to, streetlights and traffic signals, unless authorized in writing by the Commissioner of Public Works and Mayor or her authorized designee.
- (3) **Replacement Poles-** If an application requires replacement of an existing Utility Pole in order to accommodate proposed Wireless Communications Facilities, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible. The replacement of any City-owned pole shall be in accordance with the specifications of the Commissioner of Public Works.
- (4) **New Monopoles or Poles-** Subject to exceptions under these Standards, no new Monopole or Utility Pole whose primary purpose is to support personal Wireless Communications Facilities shall be installed within the public ways of the City unless authorized by the City Council. Only pole mounted antennas shall be permitted in the public ways. Towers and Monopoles are prohibited in the public ways.
- (5) **Exceptions for a New Pole-** An exception shall be required to place a new pole in a public way. If an exception is granted for placement of a new pole in the public way:
- i. the new pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced. See Section (9)(iii).
  - ii. Such new poles that are not replacement poles shall be located at least ninety (90) feet from any existing pole to the extent feasible.
  - iii. Such new poles shall be subject to a height limitation of 40 feet unless a taller height is permitted by the City Council.
  - iv. A new pole justification analysis shall be submitted to demonstrate why existing Utility Poles or locations outside of the public ways cannot be utilized and demonstrating the new pole is the least intrusive means

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possible, including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed Wireless Communications Facilities.

- v. For all wooden poles, conduit and cables attached to the exterior of poles shall be mounted flush thereto and painted to match the pole.
- vi. A new pole shall not require the replacement of adjacent poles or require the rearrangement of existing facilities of the pole owner, the City or another entity attaching to adjacent poles.

**(6) ADA Requirements**

Wireless service facilities shall not interfere with ADA standards and requirements.

**(7) Attachment to Utility Poles; Limitations**

No such personal Wireless Communications Facilities shall be attached to a Utility Pole unless all of the following conditions are satisfied:

- a. **Surface Area of Antenna-** In general, the personal wireless service antenna, including antenna panels, whip antennas or dish-shaped antennas, shall be as small as practicable, taking into account aesthetic and public safety considerations.
- b. **Size of Above Ground Personal Wireless Service Equipment-** The total combined volume of all above ground equipment and appurtenances serving a personal wireless service antenna shall be as small as practicable, taking into account aesthetic and public safety considerations.
- c. **Lowest Point Above Grade-** The operator of Wireless Communications Facilities shall, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than 8 feet above grade. No facilities may be installed at grade without the approval of the Commissioner of Public Works and the City Council. In the event that the City prohibits electric meters on utility poles or the electric distribution company does not require an electric meter, the operator shall locate the base of the equipment or appurtenances no lower than 12 feet above grade.

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- d. **Height-** The top of the highest point of the Utility Pole shall not exceed 40 feet and the combination of the height of the utility pole and personal wireless service antenna extension shall not exceed 44 feet above ground level.
- e. **Color-** The color of the Wireless Communications Facilities shall be similar to and blend with (a) the existing equipment on the Utility Pole and/or on other nearby Utility Poles, (b) the color of the Utility Pole, or (c) another color reasonably satisfactory to and directed by the City Council. The Wireless Communications Facilities shall have non-reflective materials.
- f. **Shielding of Wiring-** Any wiring on the pole must be covered with an appropriate cover or cable shield.
- g. **Mounting-** The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted to the extent feasible.
- h. **Antenna Panel Covering-** Personal wireless service antenna shall include a radome, cap or other antenna panel covering or shield and shall be of a color that blends with the color of the utility pole on which it is mounted. Where practicable, the applicant also should consider the full concealment of its equipment.
- i. **Signage-** Other than signs required by federal or state law or by the pole owner, Wireless Communications Facilities shall not have signs installed thereon. Identification tags may be utilized in accordance with governmental and/or pole owner requirements.
- j. **Wiring and Cabling-** Wires and cables connecting the antenna and/or appurtenances shall be installed in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standards required by a pole owner, and TIA/EIA applicable codes.
- k. **Grounding-** The Wireless Communications Facilities shall be grounded in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standard required by a pole owner.

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- l. **Guy Wires-** No guy wires or other support wires shall be used in connection with Wireless Communications Facilities unless the facilities are proposed to be attached to an existing Utility Pole. that incorporates guy wires prior to the date that the applicant has applied for a grant of location.
- m. **Wind Loads-** The proposed wireless facilities shall be properly engineered to withstand wind loads required by applicable safety codes and pole owner requirements. An evaluation of high wind load capacity shall include the impact of the proposed attachments on the existing Utility Pole with existing utility facilities and any third-party attachments.
- n. **Obstructions-** Each component part of a Wireless Communications Facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, cause safety hazards to pedestrians and motorists or otherwise incommode the public's use of the public way. Nor shall any such component obstruct intersection visibility. The Wireless Communications Facility shall not interfere with access to or operation of a streetlight, fire alarm cable, municipal fiber optic facilities, fire hydrant, fire alarm, fire station, fire escape, water valves and facilities, sewer facilities, underground vault, valve housing structure, or any other public health or safety facility. The Wireless Communications Facility shall not interfere with snow plowing, side walk clearing, leaf removal or the maintenance of public shade trees. The wireless facility shall not interfere with the pole owner's vegetation management practices and obligations.
- o. **Traffic Safety-** All Wireless Communications Facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic and pedestrian safety and shall not extend outward from a pole by more than two (2) feet from each side of the pole. Wireless Communications Facilities shall not project over the public way or sidewalk (beyond the berm or curb) or otherwise interfere with the public use of the public way or sidewalk. The applicant shall comply with the Uniform Traffic Manual for Traffic Control at all times during construction or installation.

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- p. **Lighting-** the applicant's Wireless Communications Facilities shall not produce any lighting or blinking light that is not required by federal or state law or by an applicable industry safety code.
- q. **Security-** the applicant shall provide adequate security for its Wireless Communications Facilities in accordance with current industry practices and any applicable standards.
- r. **Noise-** The applicant shall comply with any applicable City noise ordinance. In the event that its facilities fail to comply with such ordinance, the applicant shall provide noise suppression equipment as reasonably necessary to bring the facilities into compliance with such ordinance. In addition, the applicant shall provide acceptable assurances that it is capable of promptly shutting down and repairing any equipment that is not in compliance with City noise regulations.
- s. **Vibration-** The applicant shall provide acceptable assurances that it is capable of promptly shutting down and repairing any equipment that vibrates excessively.
- t. **Non-Interference with other Users of Utility Pole-** The applicant and its facilities shall not interfere with the operation and maintenance of any wires, cables or equipment already attached to a utility pole, including but not limited to streetlights and cable, electrical and telecommunications facilities (including any City communications facilities such as fiber optic cables and copper alarm transmission lines). Streetlights already attached to the pole shall not be moved unless required by the pole owner(s), and then only to the extent permitted under any applicable agreement between the pole owner and the City or, absent such applicable agreement, formally consented to by the Commissioner of Public Works. Signage already attached to a pole shall not be moved without the prior written consent of the City department that controls the placement of the signage.

## 8. Other Requirements

- a. **Expiration of Permit for Non-Use-** The applicant shall pay the fee for recording a grant of location order as provided for under G.L.c.166, §22 and City Code §17-3. If the applicant fails to construct and operate the approved Wireless Communications Facilities within 180 days after such acceptance, the City may notify the applicant of its intent to revoke the grant of location and direct the removal of any unused wireless



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communications facilities. The applicant shall have the opportunity to cure this failure or provide good cause for the failure based upon factors outside of its control.

- b. **Abandonment and Removal-** Any abandoned or unmarked Wireless Communications Facilities, wires and equipment shall be removed in accordance with City Code §23-14.
- c. **Non-Emergency Repairs-** Non-emergency repairs shall be performed as follows: (1) at least 48 hours' advance notice shall be provided to the Commissioner of Public Works and the Police Department; (2) a police detail may be required; and (3) work shall be performed on weekdays between the hours designated by the Commissioner of Public Works.
- d. **Removal of Utility Pole-**In the event that a utility pole is being removed and replaced by the pole owner(s), the applicant shall transfer the Wireless Communications Facilities to the replacement pole in accordance with the pole attachment agreement(s) between the applicant and the pole owner(s). In the event the pole is being removed by the pole owner(s) and not replaced, the applicant shall remove its Wireless Communications Facilities and the grant of location allowed for the removed pole location shall terminate. Applicants shall register with and participate in the NJUNs program or any successor program in effect.
- e. **Licenses and Permits-** The applicant must obtain all other permits required by law.
- f. **Performance Bond-** As required under §23-11 of the City Code.
- g. **Other Conditions for Approval-** All Wireless Communications Facilities shall be subject to the following additional conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Commissioner of Public Works, City Wire Inspector or the City Council:
  - (i) **As-Built Drawings-**The applicant shall submit as-built drawings within 30 days after installation of its Wireless Communications Facilities. As-builts shall be in an electronic format acceptable to the City which can be linked to the City's GIS. To the extent practicable, as-builts should be able to be incorporated into the GIS layers.

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- (ii) **Contact and Site Information-**The applicant shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. Such information shall include, but is not limited to (a) name, address and 24 hour local or toll-free and cellphone numbers of the applicant, the owner, operator and agent or person responsible for maintenance of the Wireless Communications Facility and (b) the legal status of the owner of the Wireless Communications Facility.
- (iii) **Insurance-** The applicant shall maintain the following insurance:

Commercial General Liability Insurance: Comprehensive liability coverage including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned automobile coverage. The limits for such coverage shall be: (1) bodily injury including death, one million dollars (\$1,000,000) for each person, occurrence and two million dollars (\$2,000,000) aggregate; (2) property damage, one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) aggregate.

Automobile Liability Insurance: Automobile liability coverage with limits no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate.

Worker's Compensation Insurance: Full Workers' Compensation Insurance and Employer's Liability with limits as required by Massachusetts law.

To the extent applicable, the City shall be named as an additional insured on all aforementioned insurance coverages as those policies permit. All insurance certificates shall provide that the policies shall not be cancelled without endeavoring to provide the City at least thirty (30) days' prior written notice.

- (iv) **Drip Lines of Trees-** No Wireless Communications Facility shall be permitted to be installed in the drip line of any tree in the public way.
- (v) **Indemnification-** The applicant must execute an indemnification agreement as a condition for approval of a grant of location. A

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form of indemnification agreement shall be provided as part of the application form package.

- (vi) **Relocation-** An applicant shall promptly, but in no event more than 120 days of the City's request, permanently remove and relocate, at no charge to the City, any facilities or equipment if and when made necessary by a change in the grade, alignment or width of any public way, by construction, maintenance or operation of any City facilities or to protect the public health, safety and welfare. The applicant shall restore any public way to the condition it was in prior to removal and relocation of its facilities or equipment.

## V. EXCEPTIONS

The City acknowledges that its application of these Procedures and Standards is subject to applicable state and federal laws. The City finds that, due to potential variations in wireless facilities, technical service objectives and changed circumstances over time, a limited exception for proposals in which strict compliance with these Procedures and Standards would conflict with applicable state or federal laws is in the public interest. Therefore, in the event that an applicant requests an exception to and demonstrates that strict compliance with any provision of these Procedures and Standards, as applied to a specific proposed personal wireless services facility, would contravene state or federal law, the City Council may grant a limited, one-time exception from strict compliance subject to the provisions of these Procedures and Standards. The City Council shall make findings on any request for an exception to these Procedures and Standards in support of the grant or denial of a requested exception.

## VI. AMENDMENTS

The City Council may from time to time amend these Procedures and Standards.