



Public Facilities Committee Report City of Newton In City Council

Wednesday, April 4, 2018

Present: Councilors Crossley (Chair), Norton, Leary, Kelley, Danberg, Laredo, Lappin

Also Present: Councilors Albright, Baker

City staff Present: Chief Operating Officer Jonathan Yeo, Director of Information Technology Joe Mulvey

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)

Action: **Public Facilities Held 7-0**

Note: Right of Way Agent Everette Bryan presented the request to locate approximately 215'± from an existing manhole #16/182 to 227 Walnut Street. He noted that the work is associated with the Washington Place Project and it is expected that construction will last two days, beginning within the month.

The Public Hearing was Opened.

Gerard Slattery, 227 Walnut Street, questioned the extent of the work to be completed at 227 Walnut Street. Mr. Slattery noted that he is the property owner of the property at 227 Walnut Street and there is no existing easement that has been granted to Verizon. Mr. Slattery noted that he has not had adequate time to review the plans or consult legal counsel. Mr. Slattery noted that he does not believe there is an existing easement.

Patrick Slattery, 227 Walnut Street, noted that this was the first notice he received for the Washington Place project and stated that he never receives legal notices.

Associate City Engineer John Daghlian confirmed that the Engineering Department reviewed the proposed installation of conduit and stated that the conduit is planned to be installed on private property, after execution of a private agreement with the property owner. Mr. Bryan stated that the property owner, Mark Development will be granting the easement. After producing a revised plan, Mr. Bryan noted that the subject property for the proposed easement is 239-241 Walnut Street, not 227 Walnut Street. Committee members were in agreement that Verizon should submit the corrected plan

to the City showing the correct address, prior to approval. Councilor Laredo motioned to hold the item, which carried unanimously.

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

Note: Director of Environmental Affairs Waneta Trabert presented updates to the Committee on the City's Organic Waste Pilot Program, status of contaminated recycling as well as general updates relative to sustainable materials management.

In Massachusetts, up to 40% of the waste stream is from food waste (including liquids). In Newton, food waste totals between 3,550 and 7,100 tons per year, costing the City from \$241,000 - \$480,000 annually. The goal of the pilot program, which started on March 12, 2018, is to gain an understanding of how to implement an effective food waste reduction campaign, measure the impacts (financial and environmental) of removing food waste, and understand whether the model is sustainable for both the City and the vendor.

Ms. Trabert showed a map of the pilot area (shown on the attached presentation). The pilot program includes 200 households and is scheduled to run until June 2018. The program will have two components; educating participants on how to reduce food waste and offering curbside collection for unavoidable organic waste (i.e. watermelon rinds, banana peels). The City has selected Boston-based *Bootstrap Compost* as its vendor in part due to their unique model. Bootstrap provides five-gallon buckets which participants fill with "unavoidable" organics. On Mondays (116 participants) and Thursdays (84 participants), Bootstrap will pick up and replace participants' buckets. Ms. Trabert noted that Monday is the normally scheduled trash pickup day and Thursday was selected because Bootstrap has an existing route through Newton on Thursday. She noted that the separation of days will help inform how participants feel about compost collection on a day outside of their regular trash pickup. The department is studying attitudes and impacts on different collection days and noted that most participants are open to the idea of separate pickup days.

Bootstrap collects compost from restaurants, residences, offices and institutions and transfers it to an educational farm in Winchester or composting facility in Saugus. The compost materials are used at local farms and donated to community garden projects. Participants also have the option of receiving a six-pound share of the material composted over 6 months. Ms. Trabert noted that bucket maintenance is typically a major deterrent for residents trying to compost. She stated that Bootstrap was selected due to their no maintenance model. During the pilot, Bootstrap will provide the City with an impact statement after the first half of the pilot. The impact statement will detail greenhouse gas emissions, weight and how much compost is estimated. A second impact statement will be issued at the end of the program.

Committee members questioned whether an analysis of the waste reduction is possible, given the small sample size. Ms. Trabert noted that the sample of 200 households will be taken from an area

of a route of approximately 1100 households. Because the sample size is approximately 1/5 of the route, Ms. Trabert is confident that reductions can be identified. After two, well attended orientation sessions a virtual session was offered online. "Food: Too Good to Waste" a guidebook was distributed, and residents were given the goal of "Don't fill the Bucket". At the end of the pilot, participants will complete a post-pilot survey. Data collected from the pilot program will be used to apply for a larger grant in June 2018 to expand the pilot program in March 2019. The total cost of the current pilot is at \$11,700 which will be funded by a Mass Department of Environmental Protection recycling dividends grant received in 2017. Ms. Trabert noted that she will need to apply for the next grant prior to the end of the program and will use the data from the middle of the program but stated that DEP has encouraged her to apply for the grant and she is optimistic that the City will receive funds.

Committee members were appreciative for the thorough presentation and details provided. A Committee member asked if a more aesthetically pleasing bucket might help increase participation. Ms. Trabert confirmed that the survey will ask about aesthetics. A Committee member noted that knowledge of best recycling practices are not well known and questioned how Ms. Trabert can improve Recycling education. A Committee member suggested that the savings generated from programs that reduce solid waste could be used for additional solid waste programs. Ms. Trabert confirmed that in the long term, the intent would be to use savings from solid waste programs to create additional or enhance existing programs.

Concerns / Recycling Contamination

In June, a notice was issued to the Word Trade Association from China stating that they are putting stricter conditions on the materials being accepted for mixed paper and plastics. Because 50% of the recycled materials from the world are sent to China, this has resulted in a major global impact. The stricter regulations took effect on March 1, 2018. Ms. Trabert noted that this was previously done in 2013-2014. China is looking to clean up the materials they are receiving. The City is working with Waste Management to establish fair methodology for sampling and to determine how to control potential cost increases. Ms. Trabert noted that a 2017 Waste Management Audit of our trash determined that 18% of the City's trash is contaminated by plastic bags, film, recyclables in plastic bags. They have not provided a break-down of the 18% residue (contamination). Because the City's contract stipulates that residue in excess of 10% will incur extra charges, The City has been incurring charges based on 5% contamination from November to January. The total cost is \$27,362. Because it is expected that China's higher standard for mixed recycling products will have long term cost impacts, it is possible that Waste Management will file a force majeure, eliminating the \$30 cap in the City's contract. Other communities are paying the uncapped rate, currently and there is a significant amount of uncertainty in the market. Ms. Trabert stated that the City has sent out a bill insert explaining what should not be put in the green carts, put ads in the Tab and the Globe and has started an online campaign. She noted that DPW is diligently working to improve curbside compliance, educating residents whenever possible. Ms. Trabert noted that she will be applying for the Recycling IQ program that provides a temporary workforce for 8-12 weeks to increase curbside inspections and compliance. If received, up to \$40,000 in grant funding may be available for Newton.

General Updates

- Yard Waste Update
- Household hazardous waste improvements
- Permanent Swap Shop by early June
- Paint Reuse Shed Improvements
- Working with Green Connections; inventorying school recycling operations
- FTE to focus on education and enforcement

Future Goals and Objectives

- Participate in Recycling IQ through DEP
- Continue ongoing education Plan
- Continue improvements in Operations and Efficiency
- Communicate Waste and Recycling Goals
- Discuss Stakeholder priorities with SWC; establish long term strategy
- Grow Social Media Presence

Areas for Improvement

- Continued Education & Outreach
- Resident Accountability/Curbside Compliance
- Commercial Sector Involvement
- Emphasis on Source Reduction
- Sustainability tie-ins i.e. measure emissions reduction
- General performance measures
- Long term planning
- Operational efficiencies

A Committee member noted concern relative to the charges accruing for excess residue and recycling. Because the City does not know the methodology used to determine the percent of residue, it is difficult to evaluate the charges. Ms. Trabert noted that she has expressed her frustration with Waste Management and has consulted the Law Department regarding the City's contract. Because the contract language is somewhat ambiguous, Waste Management has not been in violation of the contract. She stated that she continues to discuss the City's efforts to improve compliance, urging Waste Management to reevaluate the percent of contamination.

A Committee member asked whether the City is moving toward composting in schools. Ms. Trabert noted that there is a formula for schools to meet the threshold and Newton North is the only school that could qualify. Sodexo has agreed to begin back of the house composting and Ms. Trabert is working with them to pilot composting at 2-3 schools. A Committee member questioned whether incentives are offered by waste management companies that encourage municipalities to reduce the amount of waste

in the City. Ms. Trabert noted that no incentives are currently offered but stated that the City might have more leverage with a smaller waste management company.

#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”).

Action: **Public Facilities Held 7-0**

Note: The Chair noted the draft documents provided Committee members in the packet, that the Wireless Subcommittee has been working on up to this point. Led by Attorney Mandl, with Shubee Sikka from the Planning Department, the Committee focused its review on the attached Draft Procedures and Standards, occasionally referring the design guidelines that will become part of the street design guide. This resulted in a list of the following outstanding items:

- Reviewing and clarifying process for the location of new equipment (poles, wires) in Historic Districts as well as equipment proposed to be “replaced in kind”. Continued discussions with Historic District Commission necessary.
- Clarifying and completing Exceptions
- Reviewing the draft language for objectivity (i.e. “sensitive” locations)
- Clarifying difference between concrete City owned poles and utility owned poles in the public way and any differences in process
- Coordinating more carefully between Planning and Law documents regarding aesthetics (colors, shields) I.E., between the Draft Street Design Guide and the Draft Procedures and Standards
- Determine if compliance with uniform traffic manual is necessary; feedback from DPW necessary
- Analyze cumulative impact of equipment on noise; Committee members emphasized that the equipment should be inaudible and prefer requiring inaudible attachments.
- Analyze how densely the equipment may be located; review with engineering/consultant

With a motion from Councilor Laredo to hold the item, Committee members voted unanimously in favor.

The Committee adjourned at 10:00 pm.

Respectfully Submitted,

Deborah Crossley

Curbside Organics Collection Pilot Update

Public Facilities Committee Meeting
April 4, 2018

Waneta Trabert
Director of Environmental Affairs Division
City of Newton DPW



Materials Management Hierarchy





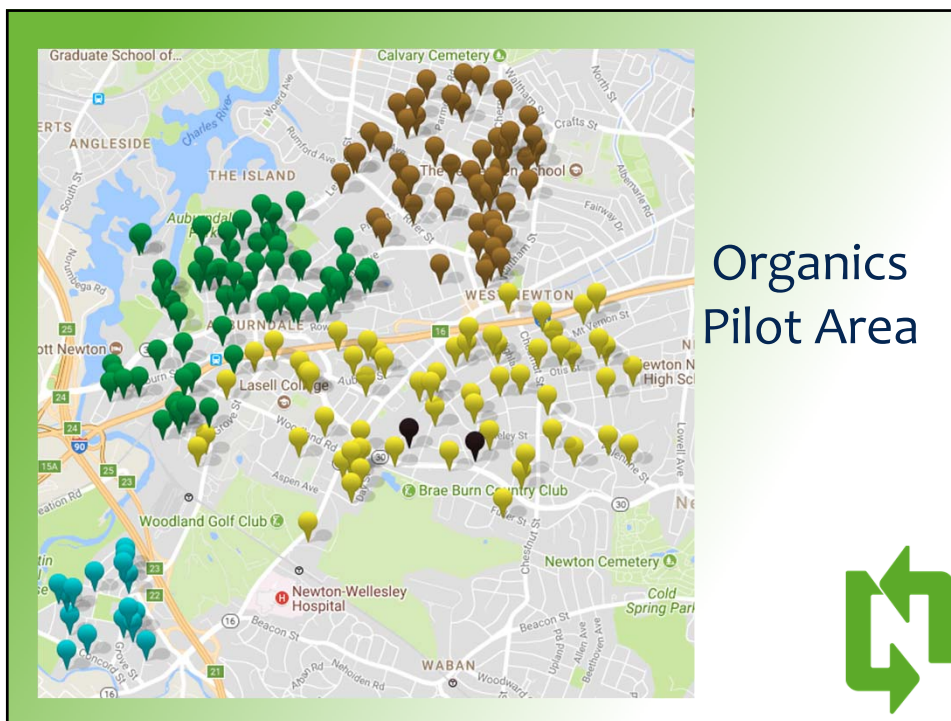
Why divert organic waste from the residential waste stream?

- Higher uses
 - Water and nutrients for soil amendment
 - Production of methane in anaerobic digestion
- Offset greenhouse gas emissions
- 26.6% of the waste stream by weight (MassDEP, 2014)
 - With liquids, up to 40%
 - For Newton this equates to 3,550-7100 tons
 - Disposal cost at \$68/ton = \$241,400 to \$482,800



Organics Collection Pilot Overview

- Four month pilot for 200 households
- Started: March 12, 2018
- Two components:
 - Educational campaign to reduce food waste
 - Curbside collection for unavoidable organics
- One collection vessel: 5 gallon bucket
- Data gathered will be used to apply for funding to expand pilot efforts



Organics Collection Pilot Overview

- Auburndale/West Newton area chosen based on fall interest survey
- All participants have Monday trash/recycling collection
- Split organics collection into 2 groups
 - Monday organics – 116 participants
 - Thursday organics – 84 participants
 - Purpose is to study the impact on participation
 - 30% said they didn't care
 - 57% said it was a minor inconvenience but they were willing to try it



BOOTSTRAP COMPOST

- Boston-based year-round collector and processor of curbside organics
- Residential, office, and restaurant service
- Material is processed at and used at local farms (Saugus & Winchester)
- A portion of compost is donated to school and community garden projects
- Pilot participants will have option to receive a 6lb compost share at pilot's end



Eliminate the “Ick Factor”

- One receptacle
- Secure lid for indoor or outdoor use
- Bucket is swapped out each week
 - No container maintenance for residents



Too Good To Waste Campaign

- Food waste reduction
- Guidebook for residents
 - Shopping
 - Storage
 - Preparation



Goal is NOT to fill the bucket!



Project Goals

Gain an understanding of:

- How to implement an effective food waste reduction program (3 participant surveys)
- The impact of food waste being removed from trash disposal (GHG report from vendor & cost reduction potential)
- Coordination, education, and administrative responsibilities for City staff (time & planning)
- Costs for the City and the vendor

Is this a sustainable and scalable model?



Engagement with Participants

- Orientation sessions
 - February 27 & March 8 in Druker Auditorium
 - Virtual – recording of February 27 session
- Pre-pilot survey – 97% completion rate
 - 49% said food waste should be addressed by policy-makers at all levels through policy changes and providing tools and/or services to reduce and divert food waste
 - 65% said food waste diversion should be a priority for the City of Newton to potentially reduce costs, recover nutrients, and decrease Newton's environmental impacts
 - 56% said Newton should focus on providing curbside organics city-wide after thorough cost/benefit analysis
 - 30% said it should happen as soon as possible



Engagement with Participants

- Pre-pilot survey – continued
 - 95% said their household has room to improve efforts to reduce food waste
 - Concern for where to store the collection container (108) outweighed concern of pests (113)
 - Participant demographics
 - 41% of households have 1 or 2 people
 - 56% of households have 3-5 people
 - 63% of households are all people over age 12
 - 68% of participants have lived in Newton over 10yrs



Pilot Costs

Operations

\$3/household × 200 households × 17 weeks
= \$10,200

Education/Outreach

Participant guidebook printing × 200hh
= \$543.50

\$4.80 kitchen scrap bucket (optional) × 200hh
= \$960

Total = \$11,703.50

Funding source: MassDEP Recycling Dividends Grant Funds



Next Steps

- Monthly check-in survey – week of April 9
- Mid-point survey – week of May 7
- Monthly check-in survey – week of June 4
- Apply for MassDEP waste reduction grant – by June 15
- Post-pilot survey – week of July 9
- Hear back about grant in September
- Assuming it is awarded, begin steps for larger pilot immediately upon hearing from DEP

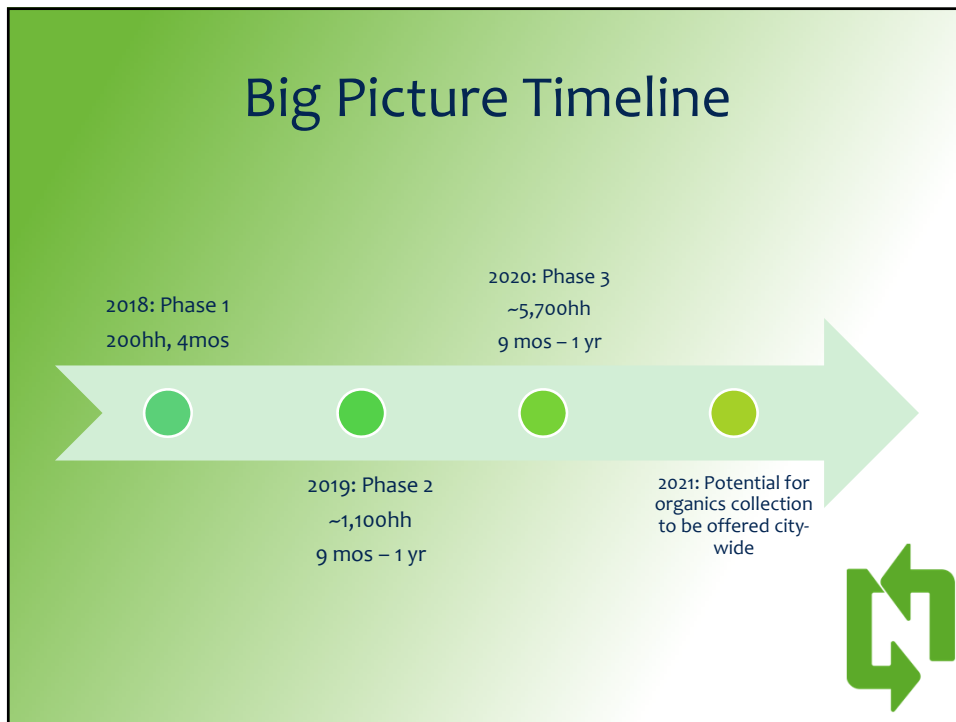


Big Picture Next Steps

- Use data and information gathered from Phase 1 Pilot to apply for grant in June 2018 to fund expanded organics collection pilot
- If grant is awarded, plan for Phase 2 pilot to start by March 2019 using lessons learned
- Pending success, plan one more pilot expansion (Phase 3) for 2020 before consideration of offering city-wide organics collection



Big Picture Timeline



International Trade Impacts

- China import ban on scrap plastic and scrap paper filed in June 2017; effective March 1, 2018
- Impacting local governments nationwide and all stakeholders in all developed nations
- Increase in costs for Newton for contamination over 10% - extra charges based on 5% of tonnage collected
 - Residue fees = \$27,362; avg \$6,840/month
- Long term cost increases are possible
 - Event likely qualifies as Force Majeure of contract
- Significant uncertainty and new developments almost daily
- Recent discussion of tariffs on metals would impact recycling markets

Addressing Contamination

- Bill insert in late November thru early March
- Newspaper ad campaign for 8 weeks from late Dec – mid Feb
- Online webpage ad campaign for 8 weeks from mid-Feb – early April
- Improving curbside compliance efforts
- Applied for Recycling IQ Program
 - Grant assistance for targeting contamination
 - City-wide mailing(s) and sandwich board campaign
 - Curbside inspections for 8 weeks in target areas



Environmental Affairs Update

- Yard waste collection started March 26
- Household hazardous waste event improvements starting in May
- Swap Shop in progress – early June
- Paint Reuse Shed improvements
- School Recycling Inventory will be compiled by June 22
- One new FTE (!) if budget is approved
 - Education & enforcement focus



Future Goals and Objectives

- Participate in the Recycling IQ Program through MassDEP – if awarded
- Continue to follow annual education plans
- Continue to improve operations
- Communicate waste and recycling goals to public
- Grow social media presence
- Discuss stakeholder priorities with SWC
 - Establish a long-term strategy



Areas for Improvement

- Education and outreach
- Resident accountability
- Commercial sector
- Emphasis on source reduction
- Sustainability & climate change tie-ins
- Performance measures
- Goal and long term planning development
- Improving operational and administrative efficiency



Contact Me

Waneta Trabert

Director of Environmental Affairs

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www.newtonma.gov/recycling

Recycle Right Newton app



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.

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

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,

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.

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.

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.

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.

- (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.

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.

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

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

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.

- 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.

- 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.

- 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

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.

- (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

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.

DRAFT 3.28.2018