



Public Facilities Committee Report

City of Newton

In City Council

Wednesday, June 6, 2018

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

City staff Present: Commissioner of Public Buildings Joshua Morse, City Engineer Lou Taverna, Chief Operating Officer Jonathan Yeo,

#357-18 COMMISSIONER OF PUBLIC WORKS requesting in accordance with Massachusetts General Law Ch. 40, Sec. 15., relocation of a portion of a 20' wide City drain and sewer easement in the center of Section 63, Block 9, Lot 2 (Boston College Middle Campus) located parallel to College Road and shown on the Easement Plan completed by Feldman Land surveyors, dated April 6, 2018.

Action: **Public Facilities Approved 6-0-1 (Laredo abstaining)**

Note: City Engineer Lou Taverna introduced the request for the relocation of an existing City drain easement located on the Boston College campus. He stated that Boston College is seeking to construct an addition to an existing building and have proposed to relocate the drain easement (and storm drain) at their expense. Boston College Director of Governmental Relations Jeanne Levesque stated that the proposed construction includes an addition and upgrade to the Central Heating Plant, which is behind Cushing Hall in the middle campus. Boston College Construction Manager Dan Diorio and Nitsch Engineering Civil Engineer Deb Danik confirmed that the 24" PVC pipe within the easement will be replaced with a "U" shaped cement duct bank, as requested by the City's Engineering Department. Committee members questioned whether the right turns in the pipe will impact the flow. Ms. Danik confirmed that the pipe has been designed to have no impact on the volume or flow and will be below grade (not exposed). With a motion from Councilor Danberg to approve the item, Committee members voted unanimously in favor.

#342-18 **National Grid petition for grant of location in Beacon Street**
NATIONAL GRID petition for a grant of location to install and maintain 320' ± of 6" gas main in Short Street from the existing 6" gas main in Montclair Road in a northeasterly direction to the endpoint of the existing gas main in front of 1521 Beacon Street to provide new service to 1521 Beacon Street. (Ward 5)

Action: **Public Facilities Approved 6-0 (Kelley not Voting)**

Note: National Grid Permit Representative Barbara Kelleher presented the request to install 320' of gas main in Beacon Street to provide new service to a newly constructed 8-unit development. The Public Hearing was Opened and Closed with no member of the public wishing to speak. Committee

members expressed no concerns relative to the request. Councilor Leary moved approval of the item which carried unanimously.

#279-18 Petition for Drain Extension in Staniford Street

JAMES BARBERIO, 49 STANIFORD STREET, ET AL petition for main ~~drain~~ sewer extensions in STANIFORD STREET from the property at 65 Staniford Street 450'± easterly to the existing sewer manhole at the intersection of Staniford Street and Freeman Street and from the property at 68 Staniford Street 700'± to the existing sewer manhole at the intersection of Staniford Street and West Pine Street.

Action: **Public Facilities Held 6-0 (Kelly not Voting)**

Note: City Engineer Lou Taverna provided an overview of the request to sewer the properties on Staniford Street. He estimated that there are approximately 13 houses on Staniford Street that are serviced by septic systems or cesspools, noting that some houses have newer septic systems and may not be interested in connecting to the City's sewer system. He stated that Staniford Street abuts the Flowed Meadow and confirmed that it is likely that some of the septic systems are in a failing state.

Mr. Taverna noted that a recent sewer extension project at Aspen/Hawthorne/Studio was based on the linear frontage formula in the Ordinance and resulted in the City paying 90% of the sewer extension while the residents paid 10% of the cost of construction. The Council revised the Ordinances (On April 2, 2012) to read that the City shall pay a minimum of 50% of the cost of construction. Mr. Taverna noted that A construction estimate of approximately \$650,000 (plus contingency and design costs) for the sewer extension North/South and East/West on Staniford Street were obtained in 2017. He estimates that the cost of construction will be \$650,000-\$700,000 (or \$22,500 per abutter, based on shared construction costs of 50%/50%). He stated that the City must fund the Engineering Services to design the sewer extension and advance funding for the construction, and that the residents' portion of the construction cost is assessed as a betterment (paid over 20 years). Mr. Taverna stated that the Engineering Department is seeking Council approval to hire the engineer to further investigate and provide design services. The intent of the public hearing is to obtain a sense of how many Staniford Street residents are interested in connecting to the sewer system before approving the construction.

Public Comment

James Barberio, 49 Staniford Street, abuts the flowed meadow. Stated that his septic system is pumped once a year. He noted that while he doesn't know if it is in a failing state, it is full each year when pumped. He stated that he is interested in participating in a sewer extension program. James Pine, 50 Staniford Street, stated that his septic system is from 1948 and is also pumped annually. He noted that it hasn't failed but may be in a failing state. Mr. Pine noted that some residences have not seen any ledge in past years and questioned whether it will be an issue.

*Mr. Taverna confirmed that the engineer will be able to determine whether there is ledge prior to beginning construction.

Paul Wilson, 62 Staniford Street, noted that it is likely that there are fewer than 13 houses interested in participating. He stated that while some systems are failing, others are not; his system is from the 1980s and another system is from 2017. Mr. Wilson noted that road is in poor condition, which discourages cut-through traffic. He does not want the road improved. Mr. Wilson confirmed that he would not be opposed to the sewerage of Staniford Street.

*Mr. Taverna noted that the contractor is only obligated to return the road to the condition in which it was found.

Ahmad Ashai, 43 Staniford, stated that the discharge into Flowed Meadow from septic systems on Staniford Street has been an issue for a while. He stated that he is supportive of the sewer extension to protect the Charles River.

Richard Kerry, 102 Staniford Street, stated that he has a new septic system and submitted the attached letter from two Staniford Street households. Mr. Kerry stated that he is not interested in a sewer extension on Staniford Street and does not want the road improved.

Four additional residents on Staniford Street were present who indicated that they are interested in connecting to the sewer system. Seeing no other member of the public wishing to speak, the public hearing was closed. A Committee member suggested that the City inquire of all of the houses on Staniford Street. Mr. Taverna confirmed that staff can further investigate which residents are interested in connecting to the sewer system, but noted that if the street is connected, all residents will be assessed a betterment. Committee members questioned whether one portion (East/West) can be connected without the other portion. Mr. Taverna confirmed that it is possible to design one portion of the system independently, it is more cost effective to install the sewer system in the entire street. Mr. Taverna stated that there are approximately 400 houses in the City who are not connected to the City's sewer system. Committee members were in agreement that it is better to have houses sewerage and not use septic systems or cesspools but acknowledged that there is currently no capital plan to address the 400 Citywide sewer connections. Committee members expressed unanimous support for allowing the Engineering Department to move forward with further investigation of who is interested in connecting and to further investigate water quality at the Charles. Mr. Taverna confirmed that an appropriation for engineering services would have to come back before the Committee for subsequent engineering and design.

#42-18 Review of City Council regulations governing petitions for wireless communications
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 5-0 (Kelley, Gentile not Voting)**

Note: Committee members reviewed the draft Grant of Location Procedures and Standards

(attached) as well as a request to consider “batched” applications for a reduced fee(attached). The Committee’s discussion followed a list of “Outstanding Items” produced by Associate City Solicitor Alan Mandl (attached).

Batched Application Fees

The Public Facilities Committee approved a \$500 fee for grants of location for wireless telecommunication equipment. Representatives from Verizon Wireless asked the City to consider reduced fees for “batches” of applications. The proposed amended fee structure is attached. Committee members discussed whether the “batching” of applications will create efficiencies that warrant reductions in the fee. Atty. Mandl noted that one Minnesota municipality allowed the batching of applications (confined to a 2 mi. radius). He suggested that grants of location may be faster to evaluate when in close proximity to one another. Committee members were not supportive of reduced fees for batched applications. It was noted that City staff will have to complete the same analysis for each location and there will be minimal, if any overlap. The Committee agreed that the \$500/location as recommended to the Finance Committee for review is appropriate.

Sensitive Locations

Committee members discussed the location of wireless equipment in “sensitive locations” Atty. Mandl suggested that the Council can consider whether a “pre-application meeting” similar to a DRT should be held to reduce the possibility of applicants submitting petitions for grants of location in sensitive locations (i.e. village centers, in front of/very near to residences). In response to Verizon asking the City to identify entrances to village centers, it was noted that the Planning Department is working to identify boundaries as part of the Zoning Redesign effort. Committee members agreed that a pre-application meeting may be helpful in reducing the number of petitions in less desirable locations, but that the Council may not have the authority to require such meeting. Questions on the application form should be asked to reveal whether a location is sensitive.

Historic Districts

Committee members reviewed the attached draft language for wireless equipment proposed within Historic Districts. It was noted that the proposed language was drafted with input from Atty. Mandl, Councilor Baker, CHHDC Chair John Wyman, City Solicitor Ouida Young. Committee members noted that the Historic District has an independent review process for equipment on poles in Historic Districts and suggested that the separate process may discourage applicants from submitting petitions for Historic Districts. Committee members discussed whether applicants should be required to submit approval from the HDC prior to petitioning for a grant of location, but it was noted that the HDC may deny an application and the Council must still act on the petition for a grant of location. Committee members were supportive of the draft language.

Underground Districts

A question was raised of whether a wireless attachment should be allowed to attach to streetlights in districts with underground utilities. The Engineering Department has confirmed that the City’s concrete streetlights on over fifty-year old concrete poles cannot be approved to safely carry additional

equipment. It was noted that even if such poles and lamps are replaced, a licensing agreement with the administration would also be necessary.

Compliance with FCC - Radio Frequency Emission Standards

Atty. Mandl noted that Verizon has questioned the proposed draft language asking for certification of compliance with radio frequency standards as regulated by the FCC, by submitting “evidence” of compliance with radio frequency emission standards with each application. Verizon asserts that they are well below the radio frequency emissions limitations established by the FCC and that evidence is too cumbersome for individual applications. Committee members agreed that an affidavit from a Verizon engineer certifying that the unit and the resulting composite installation are compliant with FCC guidelines is sufficient. Committee members noted that the desire for information relative to radio frequency emissions is in response to concerns from the public. The Committee asked Atty. Mandl to work with Councilor Baker on the redrafting of this requirement.

Noise

It was noted that the draft language states that the equipment to be located should be silent “to the extent technically feasible and commercially practicable”. Committee members noted that this does not mean that the equipment will be silent. Atty. Mandl stated that he has not seen any other “silence provisions” in his research. Committee members noted that “compliance with the noise ordinance” may not sufficiently address noise generated from electrical equipment or supporting equipment. The Verizon representatives and the City’s consultant from CommTract, Bryan Hopkins; stated that there will be no perceptible sound emitted from the wireless equipment. Committee members remained concerned about the noise and questioned whether there is an appropriate decibel level that can be included as a “not to exceed” level in the Procedures and Standards.

Trees

Committee members suggested that the draft language be revised to prohibit installation of equipment in the drip line of a tree. The Chair explained that the Tree Warden provided input on the draft language. It was additionally noted that locating equipment in the drip line of a tree requires an additional fee by the Tree Warden. Committee members agreed that the process may also discourage an applicant from locating within the drip line. Committee members agreed to leave the discretion to the Tree Warden. Minor edits were accepted for clarity.

Prohibition of Meters on Poles

It was suggested at a previous meeting that some municipalities were successful at prohibiting the attachment of meters for wireless equipment on poles. However, it was found that such prohibitions may apply only to streetlights. Atty. Mandl stated that it his understanding that meters may not be prohibited in the public way, as they are part of the electronic distribution system regulated by the DPU. (If on light poles concealment may be required) Committee members asked that Atty. Mandl confirm that meters cannot be prohibited.

Verizon Representatives indicated that they understand the desire to protect the interests of the resident but noted that there are also coverage gaps that the City wants to have addressed. It was noted

that insurance and indemnity requirements seem beyond the normal requirement for utility companies and urged Committee members to make the process as reasonable as possible. With a motion from Councilor Laredo to hold the item, Committee members voted unanimously to hold the item.

Referred to Public Facilities and Finance Committees

#355-18 Appropriate \$150,000 to make repairs to 1294 Centre Street

HER HONOR THE MAYOR requesting authorization to appropriate and expend one hundred fifty thousand dollars (\$150,000) from Free Cash for repairs to 1294 Centre Street (the former Health Department building).

Action: **Public Facilities Approved 6-0 (Kelley not Voting)**

Note: Commissioner of Public Buildings Josh Morse presented the request for \$150,000 from free cash for repairs to the former Health Department Building at 1294 Centre Street. The Commissioner noted that it is the intent of the Department to stabilize the building to allow it to be occupied. They are looking to make modest improvements to allow a Parks and Recreation Department program to use the building. He noted that Parks & Rec will take into consideration the limited parking at the site when selecting a program. Commissioner Morse reviewed the proposed improvements to the structure, including; repairs of the existing slate roof, flashing around the chimney, masonry, removal of ivy, pressure washing, trim work and repairs to the fascia, gutters and downspouts. The Commissioner noted that the focus of the improvements will primarily be on rehabilitating the building envelope. Interior work will include installation of a vertical lift, some painting and carpet work. While the building is programmatically accessible, the accessible bathrooms are elevated by three steps. The Commissioner confirmed that the lift is necessary in order to make the building available as a public building.

Committee members questioned whether \$150,000 is enough money. The Commissioner stated that there is a significant amount of work that needs to occur to rehabilitate the building but noted that it is the intent to determine what the long-term plan for the structure prior to making additional, major improvements. He confirmed that all of the proposed repairs to the structure need to occur regardless of the long-term plan. The Commissioner confirmed that the proposed work includes stabilization of the windows including re-glazing where needed. Committee members expressed strong support for the proposed work, noting the building had been neglected for many years. With a motion from Councilor Danberg to approve the item, Committee members voted unanimously in favor.

Referred to Public Facilities and Finance Committees

#354-18 Appropriate \$338,000 for the rehabilitation of the Forest Grove Pump Station

HER HONOR THE MAYOR requesting authorization to appropriate three hundred thirty-eight thousand dollars (\$338,000) from bonded indebtedness to fund the rehabilitation of the Forest Grove Pump Station.

Action: **Public Facilities Approved 6-0 (Kelley not Voting)**

Note: City Engineer Lou Taverna presented the request to appropriate \$338,000 to rehabilitate the Forest Grove Pump Station. Mr. Taverna stated that the Forest Grove pump station is the only storm water pump station in the City and is used to maintain the water level for flood prevention and mosquito

abatement. Mr. Taverna noted that the rehabilitation will occur within the existing structure. The improvements to the pump stations are almost at 100% design. Mr. Taverna noted that because the contractor must stage near the wetland, DPW will submit a request for determination and will comply with the Conservation Commission's requirements. A Committee member questioned why the work will be bonded. Mr. Taverna noted that the work will be bonded to ensure that a balance is maintained in the storm water fund. A Councilor questioned whether the improvements to the pump station will decrease the noise of the equipment. Mr. Taverna noted that the improvements may help with the noise and confirmed that the function of the pump station will remain the same. Councilor Gentile moved approval of the item which carried unanimously.

Referred to Public Facilities and Finance Committees

#356-18 Request to transfer \$150,000 to fund repair/replacement of streetlights

HER HONOR THE MAYOR requesting authorization to transfer the sum of one hundred fifty thousand dollars (\$150,000) from Current Year Budget Reserve for the purpose of funding the repair/replacement of streetlights that have been out service for many years due to underground problems.

Action: **Public Facilities Approved 6-0 (Kelley not Voting)**

Note: Transportation Division Traffic Engineer Stephen Simoglou presented the request for \$150,000 to be used to address a backlog of streetlight repairs; underground and knocked-down. Mr. Simoglou stated that there are 32 knocked down streetlights and 50 necessary underground repairs as of June 1. He noted that the cost of repairing a knocked down streetlight is approximately \$8,000 while the cost of repairing an underground issue can range from \$15,000-\$20,000 depending on the type of repair. Mr. Simoglou stated that it is anticipated that the \$150,000 can be used to repair 10-15 poles this year and remaining repairs will be staggered over several years. It was noted that the estimated total cost of repair is approximately \$477,000. Mr. Simoglou confirmed that the repairs will begin near schools, crosswalks, in village centers and in high conflict points with vehicles or pedestrians.

Committee members were very supportive of the proposed repairs. Councilor Lappin moved approval of the item which carried unanimously.

The Committee adjourned at 10:50 pm.

Respectfully Submitted,

Deborah Crossley

June 6, 2018

City of Newton
Public Facilities Committee of the City Council
1000 Commonwealth Avenue
Newton Centre, MA 02459

**Re: Comments on #279-18 Petition for Drain Extension in Staniford Street
James Barberio, 49 Stanifor Street, et al ("Petition")**

Members of the City Council Public Facilities Committee:

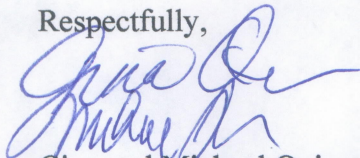
This letter serves as our comments on the above referenced Petition for the public hearing on Wednesday June 6, 2018 at 7:30 PM at Newton City Hall. We are unfortunately unable to attend in person, but wanted to share our comments and concerns on the public record in this matter.

Based on the initial information shared at a previous meeting of the Public Facilities Committee of the City Council and the Public Hearing Notice on this petition, we have the following comments:

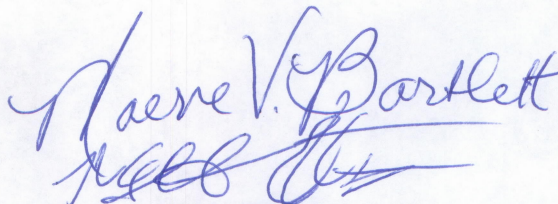
1. Unimproved portion of Staniford Street. We do not support any paving or other improvement of the unimproved portion of Staniford Street as a result of this petition or other actions of the City; and
2. Assessment of Betterments. We do not support the assessment of betterments on any property that is already connected to the City sewer system or any property that is on septic that already has the ability to connect to the existing City sewer system.

We look forward to learning more about this petition in the future and respectfully reserve our right to provide further comment as more information and details become available. Thank you for considering these comments.

Respectfully,



Gina and Michael Quinn
115 Staniford Street
Auburndale, MA 02466



Maeve and Ned Bartlett
116 Staniford Street
Auburndale, MA 02466

To: Public Facilities Committee
Finance Committee
From: Alan Mandl
Date: May 31, 2018
Re: Recommendation Regarding Grant of Location Application Fees Where Multiple Locations are Covered Through One Application

The Public Facilities Committee prepared a memo on the appropriate application fee for the review of a grant of location application to attach wireless communications facilities to an existing utility pole. It recommended an application fee of \$500 per location (for 3 separate pole locations, the total application fee would be \$1500).

We are recommending that the application fee be adjusted to reflect some economies expected to occur in the case of "batch applications," where a given wireless project encompasses a number of separate pole locations. The application may address a confined geographic space that needs several locations in order to improve coverage or assure adequate capacity, thereby avoiding poor reception and dropped calls. In some cases, there may be a run of locations along the public way that serve the same purposes. In these situations, economies can be realized where there is a common applicant using common wireless communications facilities which comply with grant of location Standards. Other jurisdictions have adopted this approach for batch applications.

We recommend the following application fee structure:

1 location- \$ 500

2 locations-\$ 750

3 locations- \$1000

5 locations- \$1500

6-10 locations- additional \$200 per location (\$2500 for 10 locations, the maximum recommended batch)

An applicant may request an exception to the cap on batch applications. If an exception is granted, the fee for locations over 10 should be no less than \$200 per location.

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.

Commented [AM1]: Verizon Wireless objects to requiring proof of continuing compliance with FCC RF emission standards and says that no such requirement is imposed on antenna of other entities.

Commented [AM2]: Verizon Wireless argues that the City cannot require proof of continuing compliance with FCC RFE rules. Unresolved issue.

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 (3) 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.

These Procedures and Standards do not apply to the filing and review of “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. For example, 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 an applicable FCC license. 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.

Also, the Applicant should provide evidence of its authority to conduct in Massachusetts the business carried out through 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. The application form may be revised from time to time.

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. A separate application shall be submitted for each separate location.

An Applicant may file a consolidated grant of location application (“Consolidated Application” or “Batch Application”) for up to ten (10) separate locations, or a greater number if agreed to by the Commissioner of Public Works, provided that all of the Wireless Communications Facilities in the Consolidated Application:

- (1) are (a) located within a two (2) mile radius or are (b) located on one (1) or two (2) contiguous public ways;
- (2) consist of substantially similar equipment;
- (3) are to be placed on similar types of Utility Poles; and
- (4) substantially comply with these Procedures and Standards.

The City may issue a notice of incompleteness (in accordance with Section III-D) as to one or more of the proposed locations and the Applicant’s Consolidated Application will not move forward until all locations in the Consolidated Application are complete.

Commented [ADM3]: CONSIDER THE CITY’S ABILITY TO PROCESS MORE THAN 3 AT ONCE AND WHETHER S HIGHER NUMBER OUGHT TO BE ALLOWED IF THEY ARE ALL PART OF A COVERAGE/CAPACITY UPGRADE TO IMPROVE SERVICE IN AN AREA OF NEED

Commented [AM4]: Verizon Wireless will not accept a 3-location limitation and argues that this limitation is unreasonable and unlawful. It questions whether other entities are so limited. It proposed larger batch applications where a group of sites is designed to serve a particular area. I have added some language from another city outside of MA.

In rendering a decision on a Consolidated Application, the City Council may approve some locations and deny other locations, but shall not use the denial of one or more grants of location to deny the entire Consolidated Application.

If within a single ten (10) day period the City receives applications from one or more petitioners seeking grants of location for more than twenty (20) separate locations, the City may extend its review period(s) by up to sixty (60) days. If the City elects such an extension, it shall inform in writing any Applicant to whom the extension will be applied. The City also may extend its review period for any specific application if it determines that an extension is reasonably necessary.

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.

The Applicant shall provide to the City Clerk as follows: (a) one (1) copy of the complete application in paper format, (b) a complete application in PDF format and (c) a complete application in a digital format compatible with the City's systems. The City Clerk will make copies of the complete application available to other City departments. Applicants will be notified if an application should be filed through the City's website, in which case a link will be provided by the City Clerk.

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.

Commented [AM5]: The Application Form needs to be finalized. We need input from DPW and Planning on the content and design of the Application Form so it can be reviewed together with a proposed final draft of these Procedures and Standards.

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. A letter from the pole owner which certifies that it has granted the Applicant a location-specific license for the proposed location and identifies the pole number of such location will constitute 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. The Application Form 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. The application fees for batch applications will be provided in the Application Form.

Commented [AM6]: Verizon Wireless has objected to the \$500 per location application fee as unreasonably high and greatly in excess of cost.

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.

Commented [AM7]: Verizon Wireless has asked when peer review would be conducted, what aspects would be covered beyond what City Staff covers and whether peer review has applied to any other pole attachment grants of location.

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. The Commissioner of Public Works shall notify the City Clerk and the applicant as to the completeness of the application within thirty (30) days of the application filing date. If the application is found to be complete, each reviewing department shall submit to the City a written report with recommendations within thirty (30) days of the application filing date. These written recommendations shall be typed, dated and provided in letter or memo format. In the event that the Commissioner of Public Works fails to notify the

Commented [AM8]: Review for any redundant language. Verizon Wireless commented that the last sentence is redundant.

City Clerk as to the completeness of the application within such thirty (30) day period, the application shall be deemed complete.

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 Section III-D, Incomplete Applications).

L. Public Hearing and Hearing Record; Requests for Exceptions

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. Any materials to be submitted by a City peer reviewer shall be filed with the City Council and provided to the applicant at least forty-eight (48) hours prior to the public hearing.

The City Council acknowledges that its Procedures and Standards are subject to applicable state and federal law. Also, due to potential variations in Wireless Communications Facilities, technical service objectives and changed circumstances over time, a limited exception for proposals may be warranted where strict compliance with these Procedures and Standards would (1) conflict with state or federal law; or (2) impose an unnecessary or unduly burdensome requirement on the Applicant, taking into account benefits to the City from enforcing the

requirement. If the Applicant intends to seek an Exception from any City Council requirement(s) which regulate the placement, construction and modification of personal wireless services facilities on the grounds that it would: (1) prohibit or have the effect of prohibiting the provision of personal wireless services; (2) unreasonably discriminate among providers of functionally equivalent services; or (3) be unnecessary or unduly burdensome in the context of the particular application and location, the Applicant should submit information in support of its position in its application. The Applicant also may request an Exception to any condition recommended in a city department report following that department's review of the application. The City Council will determine whether to grant such an Exception.

M. Written Decision and Statement of Reasons; Time Frame

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. After receipt of such report, the City Council will consider the application at its next hearing and 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. If the Public Facilities Committee has not submitted its report to the City Council prior to the expiration of an applicable "shot clock" interval and in the absence of a tolling agreement with an unexpired term, the Public Facilities Committee shall include in its report a statement of reasons why additional time was needed to review the 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 (or such later date acceptable to the applicant).

N. 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.

O. 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; DESIGN GUIDELINES

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.

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 Planning and Development Department will provide Design Guidelines which may be considered in preparing and 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. In the event of any conflict between the Design Guidelines and these Standards, these Standards take precedence over the Design Guidelines.

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

Commented [ADM9]: DEFINITIONS TO BE REVIEWED ONCE THE STANDARDS ARE FINALIZED

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 Personal Wireless Service Facilities.
- (4) **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.
- (5) **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.
- (6) **Exception** means a grant of relief by the City Council from specific limitations in these Standards.
- (7) **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.
- (8) **Personal Wireless Service Facilities** means facilities for the provision of personal wireless services, which include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.
- (9) **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.
- (10) **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).
- (11) **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.

- (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.
- (13) **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.

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 front of and on the same side of the street as an historic building listed in the Massachusetts Historic Register, (d) in an historic district (see below); (e) at an entry point to a village center; or (f) within an existing underground utility district established pursuant to G.L.c.166, §§ 22A-22N. Applicants are encouraged to use existing Utility Poles which do not support existing Wireless Communications Facilities. Please refer to the Planning and Development Department’s Design Guidelines.
- 3. **Historic Districts-** Applicants are encouraged to avoid pole locations within an historic district. The applicant shall disclose in its Application whether a proposed location is within an historic district and what, if, any certificates are needed from an historic district commission. In order to best assure consistency between historic district commission and City Council decisions regarding an Application, the applicant shall (a) file for and obtain a certificate from an historic district commission prior to filing its grant of location application or (b) file for a certificate with the historic district commission prior to or concurrently with filing its grant of location Application. If the applicant has obtained such a certificate

Commented [ADM10]: THE NEED FOR MORE SPECIFICS WAS DISCUSSED AT THE 4.4 MEETING, BUT MAY NOT BE PRACTICAL GIVEN THE VARIETY OF LOCATIONS

Commented [AM11]: Verizon Wireless suggests that the City set up a streamlined process for applications not in sensitive locations. Consider whether it would be appropriate to add that an application that is not in a sensitive location and that adheres to the Standards is more likely to be acted on sooner than an application that is in a sensitive location or than seeks exceptions to the Standards. This may be common sense.

Commented [ADM12]: Proximity to trees was discussed as a sensitive location. More information is needed regarding the separation between WCF on poles and trees.

Commented [ADM13]: STAKEHOLDERS SHOULD BE ASKED ABOUT THE BEST PRACTICES FOR PERMITTING AND AVOIDING INCONSISTENT CONDITIONS. ALSO, NEED TO REVIEW WHEN THE APPLICANT MUST APPLY FOR A CERTIFICATE-FOR EXAMPLE, IF THE LOCATION IS OUTSIDE OF BUT CLOSE TO AN HISTORIC DISTRICT

for a proposed location prior to the time that it files its grant of location Application, it shall submit the certificate as part of its Application. If a certificate is issued during the pendency of the grant of location Application, the applicant shall submit the certificate to the Public Facilities Committee. If a certificate is required but not yet issued at the time of the report of the Public Facilities Committee to the City Council, the City Council may (a) issue a grant of location based upon these Procedures and Standards and (b) condition a grant of location based upon the applicant's provision of a certificate from the historic district commission prior to commencing construction.

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 if they are in a location that subsequently has been designated an underground utility district.
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. Upon completion of construction, the Applicant shall furnish proof of compliance with such FCC regulations. The City also may request proof of compliance if (1) the Applicant changes its use of the location or adds to or replaces equipment at the location; (2) additional Wireless Communications Facilities at or in the immediate vicinity of the location cause a reasonable concern regarding cumulative emissions; or (3) a change in law which affects then existing FCC compliance standards.

D. Additional Grant of Location Approval Required; Activity that does not Require Additional Grant of Location Approval

Any increase in the height, number or dimensions 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

Commented [AM14]: The risk of inconsistent orders needs to be addressed. It is partly addressed if HDC action comes first. If it does not come first, then a consistency review may be needed. The consistency review language is a placeholder for discussion.

Commented [AM15]: Verizon Wireless states that this is an inappropriate restriction. However, it is designed to preclude attachments in an established UUD and to require removal of attachments if an area is newly designated as an UUD. Are there any UUDs in the City now? If there were UUDs, would City-owned streetlights be allowed? DPW input has been requested,

Commented [AM16]: Verizon Wireless objects to having to provide proof of continued compliance with federal RF emissions standards. It claims that this requirement violates federal law. It also questions whether the City imposes this type of requirement on antennas of other parties attached to utility poles.

Commented [ADM17]: SHOULD THIS FILING GO TO THE WIRE INSPECTOR? THE WIRE INSPECTOR HAS ENFORCEMENT AUTHORITY UNDER STATE LAW AND THE EXISTING CITY CODE

below the required level. The Commissioner of the Department of Public Works, upon a showing by the Applicant, may determine that a *di minimus* increase does not require further approval. 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 by more than a minor amount or violate applicable City requirements. No pole shall be removed or replaced without the written approval of the Inspector of Wires, as provided for under City Code Section 23-9.

Commented [AM18]: Does DPW want a new as-built drawing?

E. Other Permits

Applicants are responsible for obtaining any additional permits required by law. Such permits may include, but are not limited to, building permits, electrical permits, street opening permits and historic district commission certificates.

F. New Poles

Applications for the construction of new poles are discouraged. Existing Utility Poles and their locations 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 or replacement Utility Pole at the existing location.

Commented [AM19]: Verizon Wireless has asked if the 40 fee is a general requirement (it is). How often does the City allow taller poles?

G. General Standards

- (1) **Number Limitation-** Unless otherwise authorized by the City Council for good cause shown, only one (1) personal wireless service provider or DAS provider shall be allowed to own, attach and/or operate Wireless Communications Facilities which are attached 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 Wireless Communications 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. The Commissioner of Public Works determines whether a location is suitable and the Mayor exercises control over licensing the use of that location.

(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** (taking into account pole owner control of its Utility Poles). Any licensing of the use of a concrete City-owned streetlight pole location will require the replacement of the existing City-owned pole and such other specifications as determined by the Commissioner of Public Works. These specifications will be part of the license agreement between the applicant and the City.

Commented [AM20]: Under Chapter 166, Section 22, no City approval is needed to replace an existing utility pole (unless there is a material change). Verizon Wireless says that the utility pole owner makes these decisions, not the applicant.

(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 Which is Not a Replacement Pole- An Exception shall be required to place a new pole that is not a replacement for an existing pole in a public way. If an Exception is granted for placement of a new pole in the public way:

Commented [AM21]: Need to address whether the utility or the applicant will own the new pole. If it is the utility, Verizon Wireless states that the utility controls the pole appearance, not the wireless applicant

- i. To the maximum extent feasible (taking into account ownership of the new pole), 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.
- ii. Such new poles shall be subject to a height limitation of forty (40) feet **unless** a taller height is permitted by the City Council.
- iii. A new pole justification analysis shall be submitted to demonstrate why (1) existing Utility Poles or locations outside of the public ways cannot be utilized and (2) 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.

Commented [AM22]: No input was provided on spacing between a new pole and existing poles. The spacing requirement has been deleted.

- iv. For all wooden poles, conduit and cables attached to the exterior of poles shall be mounted flush thereto and painted to match the pole.
- v. 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.

Commented [AM23]: Verizon Wireless questions this requirement if it does not apply to the pole owner and other attachers

Commented [AM24]: Verizon Wireless questions the reason for this restriction and suggests that pole replacement and rearrangements may be a good design solution in some cases

(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:

Commented [ADM25]: See prior comment on the need to establish the permitting criteria where there may be an overlap between general grant of location limitations and historic district commission requirements.

- 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 Wireless Communications Facilities-** 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 eight (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 twelve (12) feet above grade.
- d. **Height-** The top of the highest point of the Utility Pole shall not exceed forty (40) feet and the combination of the height of the utility pole and personal wireless service antenna extension shall not exceed forty-four (44) feet above ground level.

Commented [AM26]: In (a) and (b) Verizon Wireless wants to add that the technical needs and service objectives of the applicant also will be taken into account

Commented [ADM27]: The Committee wants to explore ways to prevent metering requirements, given that wireless facilities are being attached in Boston and Cambridge without meters. Boston and Cambridge Law Depts. have not responded to inquiries. The City/DPW should engage Eversource.

- e. **Color-** To the maximum extent practicable, 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.
- 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.

Commented [AM28]: Verizon Wireless questions the City's regulating only WCF. It says that the color choices are limited by vendors and that painting requirements are burdensome and unnecessary maintenance obligations.

Commented [AM29]: Verizon proposes: "Antenna elements and equipment shall be mounted as close to the surface of the pole as practical and feasible."

Commented [AM30]: Verizon Wireless wants to limit this obligation to "if there is a choice of colors available, the applicant will use a color" that blends

Commented [AM31]: Verizon Wireless objects to the absolute prohibition of guy wires

- m. **Wind Loads-** The proposed Wireless Communications 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. Such an evaluation shall be performed by the Applicant or the pole owner. A certificate of compliance with applicable safety codes and pole owner requirements from the pole owner may be submitted in place of such an evaluation.
- n. **Obstructions-** Each component part of the Wireless Communications Facilities 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 Facilities 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 Facilities shall not interfere with snow plowing, side walk clearing, leaf removal or the maintenance of public shade trees. The Wireless Communications Facilities shall not interfere with the pole owner's vegetation management practices and obligations. The maintenance of the Wireless Communications Facilities shall not cause any such obstructions except as otherwise expressly permitted by the Standards.
- 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

Commented [ADM32]: What documentation should the City require regarding wind loads?

Commented [ADM33]: DPW feedback on this provision was requested.

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-** to the extent technically feasible and commercially practicable, the Applicant shall employ Wireless Communications Facilities that are or close to silent in accordance with industry standards and equipment specifications. 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 one hundred eighty (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 forty-eight (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

Commented [AM34]: Verizon Wireless wants to add language regarding the relocation of its WCF as soon as it is practical to do so where the pole owner is removing but not replacing the pole. This could lead to a double pole situation for a lengthy time.

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 thirty (30) days after installation of its Wireless Communications Facilities. As-built drawings shall be in an electronic format acceptable to the City which can be linked to the City's GIS. To the extent practicable, as-built drawings 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 twenty-four (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 Facilities and (b) the legal status of the owner of the Wireless Communications Facilities.
- (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.

Commented [AM35]: Verizon Wireless objects to the insurance requirements. Cable operators (including Verizon) are required to provide this insurance under their cable licenses. The insurance requirement is a public safety matter. Self-insurance may be considered an acceptable alternative.

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-** The City discourages the installation of Wireless Communication Facilities within the dripline of a Public Shade Tree or other City owned tree. If there is no alternative to the installation of a Wireless Communication Facility within the dripline of a Public Shade Tree or other City owned tree the installing party must comply with the City's Public Tree Regulation and obtain a Tree Permit from the Tree Warden. The City will not permit the pruning, cutting, or damage to a Public Shade Tree or other City owned tree to facilitate the installation of a Wireless Communication Facility unless deemed permissible by the Tree Warden.

(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.

Commented [AM36]: For City-owned poles, the City can impose insurance requirements under a license agreement. Discuss the need for additional insured language where the pole is not City-owned.

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Commented [AM37]: This section has been revised with language from Marc Welsh. Verizon Wireless objected to the original language as inapplicable to its installations. The applicable City Code provisions are being reviewed by Marc Welsh.

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Commented [AM38]: Verizon Wireless objects to this provision and says it should not have obligations that don't apply to other parties. Cable operators have this obligation under their cable licenses

Commented [AM39]: Verizon Wireless wants no more than 120 days from when the City has approved the relocation of the applicant's WCF to another nearby pole that will serve its needs. This is not practical. The City can't order Eversource to allow WCF on a nearby pole. The 120 days was provided to give Verizon Wireless and others time to find an alternative site and submit a grant of location application. Verizon Wireless language would unduly delay public works requirements.

Commented [AM40]: Verizon Wireless objects to the restoration language.

V. ENFORCEMENT; APPLICABILITY OF CHAPTER 23 OF CITY CODE

The City Inspector of Wires shall have the authority to enforce these Standards in accordance with Massachusetts law and Chapter 23 of the City Code, to the extent deemed applicable. Chapter 23 of the City Code applies to Wireless Communications Facilities located in the public ways as follows: Sections 23-1, 23-2, 23-5, 23-6, 23-7, 23-8, 23-9, 23-10, 23-11, 23-12, 23-13, 23-14, 23-15, 23-16, and 23-17. Conduit provisions under Chapter 23 may apply where an Applicant proposes to install conduit.

VI. AMENDMENTS

Commented [AM41]: Verizon Wireless proposes that the amendment be after a public hearing. It also proposes that amendments apply only to applications filed after the date the amendment is approved and not to applications previously approved.

3.28.2018 DRAFT REVIEWED AT THE 4.4.2018 PUBLIC FACILITIES COMMITTEE MEETING, WITH EDITS AS OF 5.31.18- CLEAN VERSION WITH CERTAIN VERIZON WIRELESS COMMENTS IN THE MARGIN

The City Council may from time to time amend these Procedures and Standards in accordance with law.

Grant of Location Procedures and Standards for Wireless Communications Facilities

Public Facilities Committee Meeting-June 6, 2018

Stakeholder Input Since Last Meeting

Main Topics for Discussion

Batch applications – number, type, location, fees

\$500 proposed application fee – questioned by VZW but reasonable

Description of “sensitive locations” (IV.B.2) -level of detail

Locations within an historic district (IV.B.3)- revised

Existing or new underground utility districts (IV.B.4)- revised

Confirming compliance with FCC radio frequency emission standards, while avoiding any violation of 47 USC §332(c)(7)- revised

Standards directed at pole owners vs a party attaching wireless communications facilities but not owning the pole- VZW issue

Eversource metering requirements – reached out again to Cambridge and Boston

When guy wires should be permitted – VZW raised the issue; DPW and Comm-Tract input needed

What noise limitations apply- “applicable law; City needs to address need for a new standard for pole attachments; no finding of a “no noise” requirement in other jurisdictions; excessive noise may require mufflers and kill switches

Installations near shade trees/drip lines- new language from Marc Welch for discussion

Draft Application Form

3. **Historic Districts.** Applicants are encouraged to avoid pole locations within an historic district. The applicant shall disclose in its grant of location Application whether a proposed location is within an historic district. If the proposed location is within an historic district the applicant is encouraged either to~~shall~~ (a) file for a certificate of appropriateness, hardship or non-applicability from an historic district commission prior to filing its grant of location Aapplication or (b) file for a certificate with the historic district commission concurrently with the filing of its grant of location Application. If the applicant has obtained such a certificate for a proposed location, it shall submit the certificate as part of its grant of location Application. If a certificate is issued during the pendency of the grant of location Application, the applicant shall submit the certificate to the Public Facilities Committee. If a certificate is required but not yet issued at the time of the report of the Public Facilities Committee to the City Council, the City Council may issue a grant of location which is conditioned upon the applicant's obtaining a certificate from the historic district commission. If the City Council issues a grant of location prior to a vote of an historic district commission on an application for a certificate, the applicant shall provide a copy of the City Council's grant of location order to the historic district commission prior to the historic district commission's vote on the application, ~~and the historic district commission shall determine whether the grant of location is entitled to a certificate of appropriateness, hardship or non-applicability.~~

Commented [AM1]: An historic district commission currently renders a decision on a certificate application within 45 days after the filing of a complete application. Code Sec. 22-40 (f)(4). By statute, up to 60 days is allowed if the code provision were revised to match the 60-day period. No construction can occur until the applicant has obtained a certificate from the historic district commission which permits construction. G.L.c.40C, §6. For these reasons, and in order to reduce delays, applicants are encouraged to (1) avoid historic district locations; (2) obtain an historic district commission certificate first; or (3) file for this certificate before or concurrently with the grant of location application. The historic district commissions and the City Council operate under the authority of different state laws and local rules.