

ARTICLE XVIII

SMALL WIRELESS TELECOMMUNICATIONS FACILITIES

Section 1. Definitions

As used in this Article, the following terms shall have the meanings indicated:

Antenna - Communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicable Codes - Uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Town, or adopted by the County and are applicable within the Town, including any amendments adopted by the Town and/or the County, or otherwise are applicable in the Town.

Applicant - Any person who submits an application under this Article.

Application -- A written request, on a form provided by the Town, for a PW&P permit.

Co-locate -- To install or mount a small wireless facility in the PW&P on an existing support structure, an existing tower, or on an existing pole to which a small wireless facility is attached at the time of the application. "Co-location" has a corresponding meaning.

Communications Facility -

- A. Collectively, the equipment at a fixed location or locations within the PW&P that enables communications services, including:
  - (1) Radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and
  - (2) All other equipment associated with any of the foregoing.
- B. A communications facility does not include the pole, tower or support structure to which the equipment is attached.

Communications Service -- Cable service, as defined in 47 U.S.C. § 522(6); broadband services, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).

Communications Service Provider -- A provider of communications services and includes a cable operator, as defined in 47 U.S.C. § 522(5).

Completed Application -- An application that contains all necessary and required information and/or data as set forth in this Article and that is necessary to enable an informed decision to be made with respect to an application and action on the application.

County - Montgomery County, Maryland.

DAS or Distributive Access System -- A technology using antenna-combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas, cabling or fiber-optics.

Decorative Pole -- A pole that is specially designed and placed for aesthetic purposes.

Eligible Facilities Request -- An eligible facility request as set forth in 47 CFR 1.40001(b) (3), as that section may be amended from time to time.

Facility -- Wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.

FCC -- The Federal Communications Commission of the United States.

Height -- The distance measured from the pre-existing grade level to the highest point on the tower or support structure, even if said highest point is an antenna or lightning-protection device. As regards increasing the height of an existing structure, height means the height above the top of the structure prior to any work related to a wireless facility.

Laws -- Collectively, any and all Federal, State, County, Town, or local law, statute, common law, code, rule, regulation, order, or ordinance.

Modification or Modify -- The addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility with identical components, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to an existing support structure or tower as a co-location is a modification, unless the height, profile or size of the compound is increased, in which case it is not a modification.

Ordinary Maintenance and Repair -- Inspections, testing and/or repairs that maintain functional capacity, aesthetic and structural integrity of a communications facility and/or the associated support structure, pole or tower, that does not require blocking, damaging or disturbing any portion of the PW&P.

Permit or PW&P Permit -- A written authorization (in electronic or hard copy format) to install, at a specified location(s) on the PW&P, a communications facility, tower or a pole to support a communications facility, and issued in conformance with this Article and also with the Town's Article III, Section 14, Construction in Public Ways and on Town Property.

Permitee -- An applicant that has received a permit in conformance with this Article.

Person -- An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

Pole -- A legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the PW&P.

Provider -- A communications services provider or a wireless services provider and includes any person that owns and/or operates within the PW&P any communications facilities, wireless facilities, poles built for the sole or primary purpose of supporting communications facilities.

Public Right of Way -- The area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this Article shall include public utility easements.

Public Utility Easement -- Unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities.

Public Way -- Any street, avenue, road, highway, lane, alley or other right of way under the jurisdiction of the Town, including curbs, gutters, sidewalks or storm drainage facilities.

Public Ways and Property (PW&P) - All public ways and Town-owned properties, including all public rights of way and all public utility easements, within the corporate limits of the Town.

Repairs and Maintenance -- The replacement or repair of any components of a wireless facility or complex where the replacement is in its effect, size and operation identical to the component being replaced, or for any matters that involve the normal repair and maintenance of a wireless facility or complex without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility or complex that will impose new visible burdens of the facility or complex as originally permitted. Any work that changes the services provided to or from the facility, or the equipment, is not repairs or maintenance.

Replace or Replacement -- In connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Article and any other applicable Town of Washington Grove regulations, in order to address limitations of the existing structure to structurally support co-location of a communications facility.

Small Wireless Facility -- A wireless facility that meets the following criteria:

- A. The structure on which antenna facilities are mounted:
  - (1) is 30 feet or less in height, including existing antennas; or
  - (2) is not extended to a height of more than 30 feet or by more than 10% above its preexisting height, whichever is greater;
- B. Each antenna associated with the deployment, excluding the associated equipment, is not more than three cubic feet in volume;
- C. All other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than 28 cubic feet in volume;
- D. The facility does not require antenna structure registration under Federal law; and
- E. The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards under Federal law.

State -- The State of Maryland.

Stealth or Stealth Siting Technique -- A design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean building the least visually and physically intrusive facility and complex that is not technologically impracticable under the facts and circumstances. Stealth technique includes such techniques as:

- A. DAS or its functional equivalent; or
- B. Camouflage where the tower is disguised to make it less visually obtrusive and not recognizable to the average person as a wireless facility or complex.

Substantial Modification -- A change or modification that:

- A. Increases the existing vertical height of the structure; or
- B. Adds an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure or more than the width of the wireless support structure; or
- C. Increases the square footage of the existing equipment.

Support Structure -- A structure in the PW&P other than a pole or a tower to which a wireless facility is attached at the time of the application.

Tower -- Any structure in the PW&P built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

Town - Town of Washington Grove, Maryland.

Wireless Facility -- The equipment at a fixed location or locations in the PW&P that enables wireless services. The term does not include coaxial, fiberoptic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A small wireless facility is one type of a wireless facility.

Wireless Services -- Any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Wireless Services Provider -- A person who provides wireless services.

Section 2. Access to Public Ways and Property (PW&P)

- A. Prior to any construction, installation, or any other work performed, other than ordinary maintenance and repairs, in the PW&P for any communications facility, or any pole built for the sole or primary purpose of supporting a communications facility, a person shall first receive a PW&P permit and pay any applicable fees, as required by the Town's Article III, Section 14, Construction in Public Ways and on Town Property, and as specified by the Town's Article XVI, Section 10, Public Ways and Property Permit Fees. No PW&P permit shall be issued until the applicant has entered into a PW&P agreement in a form approved by the Town according to this Article. The PW&P agreement shall set forth, at a minimum, the following:
- (1) the maximum term of the agreement and the bases of termination;
  - (2) the scope of the subject matter of the agreement;
  - (3) the operator's maintenance obligations;
  - (4) the operator's indemnification and insurance requirements;
  - (5) emergency contacts required for emergencies related to the facilities;
  - (6) the Town's right of access and inspection of the facilities; and
  - (7) any other provision deemed necessary by the parties thereto.
- B. In order to ensure that the location, placement, construction and modification of a facility do not endanger or jeopardize the public's health, safety, public welfare, environmental features, the nature and character of the community or neighborhood and other aspects of the quality of life specifically listed elsewhere in this Article, the Town hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or administrative approval granted authority for wireless facilities for the express purpose of achieving the following outcomes:
- (1) Requiring that PW&P permits will not be issued unless the provider has a PW&P agreement, if required, and has paid all applicable fees.
  - (2) Requiring a PW&P permit for any new facility or any modification of a facility or for a co-located facility.
  - (3) Requiring administrative approval and a properly issued PW&P permit for any co-location or modification of a facility that is not a substantial modification or co-location.
  - (4) Implementing an application process and requirements.
  - (5) Establishing procedures for examining an application and issuing a PW&P permit or administrative approval that is fair and consistent.
  - (6) Promoting, and requiring, wherever possible, the sharing and/or co-location of support structures among service providers.
  - (7) Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of attachments to a facility in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth siting techniques.
  - (8) The Town's Planning Commission is the officially designated agency or body of the municipality to whom applications for a PW&P permit for a facility must be made, and that is authorized to make decisions with respect to granting or not granting or revoking a PW&P permit applied for under this Article.

- (9) The Town hereby designates the Town's Mayor, or the Mayor's designee, as the authority for requests for all administrative approvals, (i.e., for anything other than a substantial modification or a new facility).
- (10) Prior to the submission of an application there shall be a preapplication meeting for all intended applications. The pre-application meeting may be held either on site or telephonically as deemed appropriate by the Mayor or the Mayor's designee. The purpose of the pre-application meeting will be to address:
- (a) Issues that will help to expedite the review and permitting process; and
  - (b) Specific issues or concerns the Town or the applicant may have.
- (11) Costs of the Town's consultant(s) to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of the escrow account created prior to any site visit or pre-application meeting or any work related to an intended application preceding the site visit or pre-application meeting.
- (12) If there has not been a prior site visit for the requested facility within the previous six months, a site visit shall be conducted.
- (13) An applicant shall submit to the Town the number of completed applications determined to be needed at the preapplication meeting. If Town action is required, applications will not be transmitted to the Town for consideration until the application is deemed complete by the Mayor or the Mayor's designee or the Town's consultant(s).
- (14) All applicants shall closely follow the instructions for preparing an application. Not following the instructions without permission to deviate from such shall result in the application being deemed incomplete and a tolling of the time allowed for action on an application until a complete application is received.
- (15) Within 30 days of the date of submission of an application, the applicant shall be notified in writing of any deficiencies related to the completeness of the application. No additional review or consideration of the application shall occur until such deficiencies are corrected. Remediation of deficiencies in an application shall be deemed an amendment of the application that was received and will again be reviewed for completeness as provided in this subsection.
- (16) The Town may deny applications not meeting the requirements stated herein or which are otherwise not complete after proper notice and a reasonable opportunity to make the application complete has been afforded. Applications will be deemed abandoned if left incomplete for more than 90 days after the date of notice of incompleteness.
- (17) No work of any kind on or at a facility shall be started until the application is reviewed and approved and the PW&P permit or administrative approval, as applicable, has been approved in accordance with the Town's Code of Ordinances.
- (18) Any and all representations made by the applicant or that are made in support of the application shall be deemed to be on the record, whether written or verbal, and shall be deemed to have been relied upon in good faith by the Town. Any verbal representation shall be treated as if it were made in writing.

- (19) Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a facility shall be issued where the facility is not in full compliance with all applicable Town, County, State, and Federal laws, rules, regulations and orders. A facility not in full compliance with this Article shall be required to be brought into full compliance before any permit of any kind will be issued.
- (20) An application shall be signed on behalf of the applicant(s) by a person vested with the authority to bind and commit the applicant attesting to the truthfulness, completeness and accuracy of the information presented.
- (21) Applications shall include written commitment statements to the effect that:
- (a) The applicant's facility shall at all times and without exception be maintained in a safe manner, and in compliance with all conditions of all permits, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable Town, County, State, and Federal laws, rules, and regulations, unless specifically granted relief by the Town in writing; and
  - (b) The construction of the facility is legally permissible, including, but not limited to, the fact that the applicant is licensed to do business in the State.
- (22) Where a certification is called for in this Article, such certification shall bear the signature and seal of a professional engineer licensed in the State.
- (23) A permittee of a PW&P permit or administrative approval granted authority under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.
- (24) An applicant intending to co-locate on or at an existing facility or complex shall be required to document the intent of the existing owner to permit its use by the applicant.
- (25) Any technical information must be provided in such a manner, detail and form that the content and any conclusions are able to be verified by a third party using the information used and provided by the applicant.
- (26) All costs associated with the preparation and submission of an application and/or necessitated by the requirements for obtaining and maintaining any and all Town permits shall be borne by the applicant or permittee.
- (27) Inventory of existing sites. Each applicant for approval of an antenna and/or a facility shall provide to the Town's Planning Commission an inventory of its existing antennas and facilities that are within the jurisdiction of the Town, including specific information about the location, height and design characteristics of each antenna. Applicants are encouraged to submit an inventory of potential future facility sites within the jurisdiction of the Town. The Mayor or the Mayor's designee may share such information with other applicants applying for administrative approval under this section or other

organizations seeking to locate antennas within the jurisdiction of the Town; provided, however, that the Mayor, or the Mayor's designee, is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- (28) Applicants must submit information showing that the small cell complies with the Federal Communications Commission's regulations concerning radio frequency emissions referenced in Section 332(c)(7)(B)(iv) of Title 47 of the United States Code.
- (29) The PW&P permit may be rescinded if construction is not substantially commenced within one year. Absent a showing of good cause, an applicant under this section may not renew the PW&P permit or resubmit an application to develop a small cell at the same location within six months of rescission.
- (30) A PW&P permit shall be rescinded if construction is not completed within six months from the beginning of construction.



Section 3. Application Requirements for New Facilities or Substantial Modification

A. All applicants for a PW&P permit for a new wireless facility, that constitutes a substantial modification, shall comply with the requirements set forth in this section. In addition to the required information set forth in this section, all applications for the construction or installation of a new wireless facility or substantial modification shall contain the information hereinafter set forth prior to the issuance of a PW&P permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

(1) Ownership and Management.

- (a) The name, address, phone number and e-mail address of the person preparing the application;
- (b) The name, address, phone number and e-mail address of the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name, e-mail address and all necessary contact information shall be provided;
- (c) The postal address and tax map parcel number of the proposed site;
- (d) A copy of the FCC license(s) applicable for the intended use(s) of the wireless telecommunications facilities, including all FCC-licensed frequency bands to be used;
- (e) The applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the applicant to share any new telecommunications tower or support structure that it constructs or has constructed for it.

(2) Zoning and Planning.

- (a) The zone in which the proposed site is located;
- (b) The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all property lot lines;
- (c) The location, size of the footprint and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the application;
- (d) A site plan to scale, not a hand-drawn sketch, showing the footprint of the facilities/support structures;
- (e) Street-view elevation drawings showing the profile or the vertical rendition of the facility or support structure and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
- (f) The type of tower or support structure, the size of antenna proposed;
- (g) Certified statement of costs.

[1] A certified statement of:

- [a] The total cost of construction for the work associated with the application; and

[b] The total cost of all equipment of the applicant at the facility.

[2] To verify the accuracy of the information, the Town reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.

(3) Additional submission requirements.

(a) The applicant shall provide a written traffic control plan.

(b) The applicant shall provide any additional utility construction information as required by Applicable Codes, and the Code of Ordinances and standards of the Town of Washington Grove.

B. Fees and Charges.

(1) PW&P permit application fee. Every applicant shall pay a PW&P permit application fee as set forth in the Town's Article XVI, Schedule of Fees, Section 10, Public Ways and Property Permit Fees ("the Town's fee schedule"). This fee shall be paid upon submission of the application.

(2) PW&P agreement fee. Every person requesting a PW&P agreement from the Town shall pay a PW&P agreement fee as set forth in the Town's fee schedule. This fee shall be paid upon submission of the proposed PW&P agreement.

(3) PW&P use fee. In exchange for the privilege of non-exclusive occupancy of the PW&P, the provider shall pay the Town a PW&P use fee as set forth in the Town's fee schedule. This fee shall be due and payable within 30 days of execution of the PW&P agreement or the issuance of the applicable PW&P permit(s) required under this Article, whichever is sooner. This fee shall be due and payable on an annual basis on each yearly anniversary.

(4) Other fees. The applicant or provider shall be subject to any other generally applicable fees of the Town or other government body, such as those required for electrical permits, building permits, or street opening permits, which the applicant or provider shall pay as required in the applicable laws.

(5) No refund. Except as otherwise provided in the PW&P agreement, the provider may remove its communications facilities or poles from the PW&P at any time, upon not less than 30 days' prior written notice to the Town, and may cease paying to the Town any applicable recurring fees, as of the date of actual removal of the facilities and complete restoration of the PW&P. In no event shall a provider be entitled to a refund of fees paid prior to removal of its communications facilities or poles

(6) Bonds. Unless otherwise provided in a PW&P agreement or agreed to in writing by the Town, a performance bond or other form of surety acceptable to the Town equal to at least 125% of the estimated restoration cost of the work within the PW&P shall be provided before the applicant commences work to guarantee the prompt and proper restoration of the PW&P.

C. Effect of permit. A permit from the Town authorizes an applicant to undertake only the activities in the PW&P specified in the application and permit, and in accordance with this Article and any general conditions included in the permit. A permit does not authorize attachment to or use of existing poles, support structures or other structures in the PW&P not

owned by the Town; a permittee or provider must obtain all necessary approvals from the owner of any pole, tower, support structure or other structure prior to any attachment or use. A permit does not create a property right or grant authority to the applicant to interfere with other existing uses of the PW&P.

- D. Not transferrable or assignable. No permit shall be issued except to a wireless service provider with immediate plans for use of the subject communication facility. A permit issued under this Article may not be assigned or transferred.
- E. Batch permit provision. An applicant may simultaneously submit applications for communications facilities, or may file a single, consolidated application covering such communications facilities, provided that the proposed communications facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the corporate limits of the Town. If the applicant files a consolidated application, the applicant shall pay the application fee, agreement fee, and use fee calculated as though each communication facility were a separate application.
- F. Public notification.
  - (1) Before making its decision on any application, the Planning Commission will hold a public meeting on the application, wherein the applicant will present its plan and application.
  - (2) Applicant is responsible for providing at least 15 days written notice of the time and place of such meeting to the owners of all properties within a 300-foot radius of the proposed site. The applicant shall provide a list of these property addresses with the application and an affidavit attesting that notice as provided herein has been sent via certified mail, return receipt.

#### Section 4. Requirements for facilities.

- A. The provider shall not locate or maintain its communications facilities or poles so as to unreasonably interfere with the use of the PW&P by the Town, by the general public or by other persons authorized to use or be present in or upon the PW&P.
- B. All work at a facility shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code, the Occupational and Safety and Health Administration (OSHA) regulations, and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
- C. Unless such is proven to be technologically impracticable, the Town requires the co-location of new antenna arrays on existing structures and the use of underground utilities whenever possible as opposed to

the construction of new structures and utilities or increasing the height, footprint or profile of a facility beyond the conditions of the approved PW&P permit for an existing facility as determined by the Town in its sole discretion.

- D. A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technique as may be required by the Town.
- E. A DAS system that is owned or operated by a commercial carrier and is part of a commercial wireless system, or is used for commercial purposes, is expressly included in the context of this Article, regardless of the location or whether the facility or any of its components are located inside or outside a structure or building.
- F. Any new wireless facility shall be designed and constructed so as to be the least visually intrusive, create the least visual impact reasonably possible and have the least negative impact on nearby property values, provided that, pursuant to 47 U.S.C. § 332(c)(7)(B)(II), compliance with this requirement does not prohibit or effectively serve to prohibit the provision of the intended service from one or more facilities.
- G. Whenever possible, it is preferred that equipment cabinets not fully enclosed within a support structure be located underground.
- H. Aboveground placement of facilities and equipment cabinets shall be installed in the PW&P and:
  - (1) In a manner that does not impede, obstruct, or hinder pedestrian or vehicular travel.
  - (2) Does not significantly create a new obstruction to property sight lines.
  - (3) At the intersection of property lines, or along secondary property street facing.
  - (4) In alignment with existing trees, utility poles, and streetlights.
  - (5) Equal distance between trees when possible, with a minimum of fifteen-foot separation such that no proposed disturbance shall occur within the critical root zone of any tree.
  - (6) With appropriate clearance from existing utilities.
  - (7) Located at least 10 feet away from the triangle extension of a driveway flare.
  - (8) No closer than 250 feet away, radially, from another freestanding small cell.
  - (9) Set back at least 30 feet from any residential structure.
  - (10) Comply with specifications for utility construction guidelines.
  - (11) All lines, including power and transport facilities, connecting to a new freestanding pole shall be placed in duct or conduit that is buried below ground.
  - (12) New overhead wiring to accommodate the antennas will not be permitted.
- I. All proposed freestanding small cell infrastructure shall be designed:
  - (1) To camouflage and conceal to the maximum extent feasible all proposed equipment within proposed freestanding antenna pole(s) as

applicable and consolidate all equipment within approved singular enclosures; and

- (2) To meet the following size limitations of equipment:
- (3) Any new freestanding antenna pole shall be 25 feet or less in total height in any existing or planned (i.e., platted) residential neighborhood. Said height limit shall not be as of right but shall be the maximum permissible height subject to the verifiable proof-of-technical need information submitted.
- (4) So that no signage, banner or advertising is located upon the facility except for Town signs and/or banners.
- (5) So that the parent owner of each facility, company pole code identifying information, and emergency telephone number is imprinted/etched on a metallic plaque not to exceed four inches by six inches in size and permanently mounted onto the freestanding antenna pole at approximately four feet to six feet from ground level so visible to the public and onto any associated ground-mounted equipment, in addition to any other signage required by law (e.g., RF ground notification signs). Any applicant must identify the proposed frequency or frequencies to be used by the associated network node(s).

J. Any application to an existing pole.

- (1) All antennas and all of the antennas' exposed elements and/or shroud transitions shall be mounted at the top of the proposed pole with the following criteria:
  - (a) All of the antenna equipment be enclosed within a single cylindrical antenna shroud, preferably matching the pole shaft diameter.
  - (b) The antenna shroud shall match pole color, finish, and be as solid as feasible to visually conceal all contents and/or wiring.
  - (c) Once transitioned from the pole shaft, the antenna shroud diameter shall remain consistent.
  - (d) The antenna shroud may not exceed a height of five feet.
- (2) If the applicant demonstrates that antenna equipment cannot be located as above, a shrouded, externally mounted antenna package may be proposed. This equipment may not:
  - (a) Protrude from the outer circumference of the existing structure or pole by more than two feet.
  - (b) Exceed a height of five feet, mounted longitudinally to the pole shaft.
  - (c) All remaining equipment to be located at the pole, including radios not mounted at top of pole, electric meters, grounding equipment, cutoff switches, etc., shall be fully enclosed within a base shroud that:
    - [1] Is structural to fully support the pole while maximizing equipment volume.
    - [2] Is cylindrical with a maximum consistent diameter of 16 inches, not including small architectural banding features. This diameter may be increased on a case-by-case basis to 20 inches if it combines multiple carriers or uses.

- [3] Does not exceed a height of six feet from mounting surface.
  - [4] Matches pole color, finish, and be as solid as feasible to visually conceal and lock all contents and/ or wiring.
  - [5] Any equipment attached to node support poles must be mounted so that all parts are at least seven feet or higher above adjacent surface grade.
- (3) While not preferred, any ground-mounted enclosures separate from associated pole will be reviewed and approved on a case by case basis, and:
- (a) Proposed elements of pole shall be aesthetically matching and consistent with character and height of adjacent poles and streetlights or as otherwise approved and agreed to by the Town.
  - (b) May require landscaping or other aesthetic improvements, depending upon location.
  - (c) For network nodes or equipment placed on existing poles, the color of the network nodes shall match the existing pole color, such that the network nodes blend with the existing pole.
  - (d) Such related equipment shall have a maximum footprint area of 10 square feet with a maximum height of two feet, and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.
- K. Ordinary maintenance and repair. A permit shall not be required for ordinary maintenance and repair. The provider or other person performing the ordinary maintenance and repair shall obtain any other permits required by applicable laws and shall notify the Town in writing at least seven calendar days before performing the ordinary maintenance and repair.
- L. Material changes. The Town may require payment of an additional permit application fee in the event the Town determines, in its sole discretion, that material changes to an application after submission amount to a new application and will materially increase the time and/or costs of the permit review process. Unless otherwise agreed to in writing by the Town, any material changes to an application, as determined by the Town in its sole discretion, shall be considered a new application for purposes of the time limits set forth.

#### Section 5. Construction standards.

- A. Safety. In performing any work in or affecting the PW&P, the provider, and any agent or contractor of the provider, shall comply with all other applicable laws.
- B. Traffic control. Unless otherwise specified in the permit, the permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The permittee shall maintain all barriers and other traffic

control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the Town.

C. Utility locate. Before beginning any excavation in the PW&P, the permittee shall comply with Maryland's Miss Utility Law.

D. Compliance with permit.

(1) All construction practices and activities shall be in accordance with the permit and approved final plans and specifications. The Town and its representatives shall be provided access to the work site and such further information as they may require ensuring compliance with such requirements. All work that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Article, shall be removed at the sole expense of the permittee. The Town may stop work in order to assure compliance with the provision of this Article.

(2) In addition to obtaining a permit for installation of a communications facility, poles built for the sole or primary purpose of supporting communications facilities, in the PW&P, an applicant must obtain all other required permits, including, but not limited to, Town, County, and the State of Maryland.

E. Restoration requirements.

(1) The provider, or its agent or contractor, shall restore, repair and/or replace any portion of the PW&P that is damaged or disturbed by the provider's communications facilities, poles or work in or adjacent to the PW&P.

(2) If the provider fails to timely restore, repair or replace the PW&P as required in this subsection, the Town or its contractor may do so and the provider shall pay the Town's costs and expenses in completing the restoration, repair or replacement.

F. Removal, relocation and abandonment.

(1) Within 30 days following written notice from the Town, the provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its communications facilities, poles, or support structures within the PW&P, including relocation of aboveground communications facilities underground (consistent with the provisions of this Article), whenever the Town has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Town improvement, the operations of the Town in, under or upon the PW&P, or otherwise is in the public interest. The provider shall be responsible to the Town for any damages or penalties it may incur as a result of the provider's failure to remove or relocate communications facilities, poles, or support structures as required in this Article.

(2) The Town retains the right and privilege to cut or move any communications facility, pole, or support structure located within the PW&P of the Town, as the Town may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Town shall notify the provider and give the provider an opportunity to move its own facilities prior

to cutting or removing the communications facility, pole, support structure or tower. In all cases the Town shall notify the provider after cutting or removing the communications facility, pole, support structure or tower as promptly as reasonably possible.

(3) A provider shall notify the Town of abandonment of any communications facility, pole, or support structure at the time the decision to abandon is made; however, in no case shall such notification be made later than 30 calendar days prior to abandonment. Following receipt of such notice, the provider shall remove its communications facility, pole, or support structure at the provider's own expense, unless the Town determines, in its sole discretion, that the communications facility, pole, or support structure may be abandoned in place. The provider shall remain solely responsible and liable for all of its communications facilities, poles or, support structures until they are removed from the PW&P unless the Town agrees in writing to take ownership of the abandoned communications facilities, poles, or support structures.

(4) If the provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its communications facilities, poles, or support structures or remove any of its abandoned communications facilities, poles, or support structures as required in this subsection, the Town or its contractor may do so, and the provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Town incurs arising from the delay.

G. As-builts and maps. The provider, at no cost to the Town, shall provide maps showing location of equipment in the PW&P and as-builts after construction.

#### Section 6. Violation and penalties.

Violation of any of the provisions of this Article shall be a municipal infraction punishable with a civil penalty of \$150 for each violation. Each day that a violation occurs or is permitted to exist by the applicant or provider constitutes a separate offense. In addition thereto, the Town may also seek any and all legal or equitable remedies available to enforce the provisions of this Article.