

**FEDERAL COMMUNICATIONS COMMISSION
BROADBAND DEPLOYMENT ADVISORY COMMITTEE
MODEL CODE FOR MUNICIPALITIES WORKING GROUP**

DISCUSSION ITEMS FOR BDAC MEETING DATED NOVEMBER 9, 2017

THE FOLLOWING ITEMS ARE A LIST OF THE WORKING GROUP'S MOST SUBSTANTIALLY DEBATED TOPICS TO DATE. THE WORKING GROUP SEEKS FEEDBACK REGARDING THESE ITEMS.

APPENDED HERETO IS A COPY OF THE CURRENT, PRELIMINARY DRAFT OF THE MODEL CODE FOR MUNICIPALITIES. AS NOTED THEREON, THE DRAFT MODEL CODE IS A PRELIMINARY DRAFT, AND SUBJECT TO SUBSTANTIAL FURTHER WORK BY THE WORKING GROUP, INCLUDING FURTHER CONSIDERATION OF VARIOUS FUNDAMENTAL CONCEPTS AND SPECIFIC PROVISIONS

1. Collocation Definition

What is the issue:

Industry representatives are questioning whether to expand the collocation definition to all communications services. However, local governments note that the current definitions for collocation are not necessarily expanded and we perhaps should not be expanding those definitions in the Model Code.

Current language under discussion:

“Collocate” means to install, mount, maintain, modify, operate, or replace a Communications Facility on or adjacent to a Support Structure or Utility Pole where a Communications Facility is already located, as of the date an Application is filed with respect to such Support Structure or Utility Pole. “Collocation” has a corresponding meaning.

2. Decorative Pole Definition

What is the issue:

Decorative poles differ from other poles as they have aesthetic qualities designed to enhance the character of the streetscape. Customizing installations for decorative poles can be more time consuming and costly for carriers, but to communities they are considered important features to maintain and enrich the character of certain areas of the community. Therefore, how broad or limited the definition of a decorative pole can impact the necessary customization required by carriers to serve certain areas of the community.

Current language under discussion:

“Decorative pole” means an Existing Support Structure that is specially designed and placed for aesthetic purposes and with respect to which applicable state or local law, regulation, contractual requirements or administrative practice impose requirements regarding appurtenances or attachments that are not applicable to other Existing Support Structures with the same function.

3. Fees & Rates

What is the issue:

Industry seek cost-based fees for access to ROW infrastructure, especially in regards to small cell deployment given the number of wireless small cells expected to be deployed for 5G networks. Some local governments may seek market-based fees for access to the ROW, and in some cases, may be required by law to do so in order to ensure the public is fairly compensated. Issues around lack of transparency in pricing, both faith actors on both sides, and lack of capacity in local governments exacerbate these issues.

Current concepts under discussion:

NOTE: When considering appropriate fees/rates to be charged, a local government should consider the following: Rental compensation charge for occupation of publicly-owned property for profit-making purposes. Inquiry may include review of rents charged by private property owners in the area for wireless installations to help evaluate fair market rental value of installation on Existing Support Structures (or “ESSs”, defined below) and/or New Support Structures (or “NSSs, defined below) in a competitive marketplace. To the extent local governments have the resources and the willingness to make access to Authority-owned ESSs in the ROW available for wireless installations, they should avoid, if practicable, creation of a “monopoly rent” approach to rental compensation for access to such poles, in which a single provider is selected to enjoy access to all such poles in the ROW via a highest rental bid process. Such a “monopoly rent” approach would likely not benefit local community users of wireless services in the long run and may violate federal law. A system that evaluates fair rental value, comparable to the way a private property owner would evaluate the value of making its property available for similar uses, is more likely to balance the interests of the community in fair market rental compensation for the profit-making use of its property and efficient use of such property, with desirability of robust, competitive wireless communications services.] Options: Rental compensation can take a variety of forms, including, for example, per-ESS rentals, reimbursement of municipal costs associated with the activities involved, provision of in-kind services to support local government needs, or some combination of these. Adjustments recognizing the desirability of wireless communications.

Jurisdictions are advised that while they may choose to seek full fair market rental value for the use of the public ROW for installation of wireless facilities on Authority-owned Structures, many jurisdictions may determine that local access to wireless communications is a sufficiently desirable resource for the community that less than market rental value is acceptable. Indeed, many communities may, in evaluating the relevant priorities, choose to limit rental charges to a reimbursement of the jurisdiction’s incurred costs related to the installation (and some communities may be thus limited by applicable state or local law). However, jurisdictions that are able may seek to ensure via conditions on access that the benefits of accepting lower than fair market rental value redound to the community, not solely to the provider.

Methods for insuring such benefits may include, for example, provision for lower rental charges to where facilities are installed in underserved communities within the jurisdiction or that have special needs, or, similarly, by provision for lower charges in return for commitments to install across different communities within the jurisdiction to avoid “redlining” or similar effects.] Examples of actual compensation charged for attachments to Authority-owned structures include: [Highlight actual charges in municipalities of various sizes and in various locations across the U.S.]

4. Small Cell Volume Size Issue

What is the issue:

Industry representatives seek streamlining of approval for small cell installations in particular. The working group has discussed development of a definition of small cell attachment that establish volume sizes for equipment that will have simplified approval. Municipalities view current industry-recommended sizes as too large and industry representatives feel restrictions on the sizes are not realistic the need for heterogeneous networks (i.e., 3G/4G/LTE/5G co-location) and current technology limitations. A proposal for aggregate equipment volume sizes of 6 cubic feet for antennas and 28 cubic feet for all types of equipment have been made by industry. Local government representatives have indicated much smaller volume sizes are appropriate (e.g., 2.1 cubic feet for antennas).. Alternative proposals to the very large size also include designing for the average size deployed (i.e., not the worst case scenario of 28 c.f.) and requiring size reductions over time to incentivize smaller builds by OEMs. The question is whether volume sizes should be established and included in the Code for this purpose.

5. Undergrounding of Facilities in the ROW

What is the issue:

Local governments may seek to limit or prohibit placement of new above ground telecom infrastructure in areas where existing utility infrastructure is not already placed above ground, as well as placement of new telecom infrastructure underground in areas where there is not already utility infrastructure placed underground. Industry representatives view such prohibitions (and significant limitations) as problematic given the nature of network design, which typically requires locating infrastructure in narrowly defined geographic areas in order to provide network coverage. Aerial fiber is also substantially cheaper and quicker to deploy than undergrounding for service providers, however some communities value aesthetic, historic, or public safety needs (e.g., high hurricane areas) over faster broadband deployment which can cause conflict.

Current language under discussion:

Facilities may be installed above ground in areas where existing utility facilities are above ground and shall, unless otherwise approved by the Authority, be installed underground in areas where existing facilities are installed underground, subject to all applicable safety codes and subject to the Authority's ongoing authority to direct the undergrounding of utilities where utilities have previously been located above-ground.

6. Relocation of Existing Facilities in the ROW

What is the issue:

Local governments seek to have the ability to require relocation of telecom infrastructure placed in the ROW as a result of a “public project”. What are the circumstances and timeframes within which such relocation should appropriately be required?

Current language under discussion:

If relocation of facilities is required as a result of any public project, the Authority shall provide at least 90 days’ notice to any ROW occupant. Unless otherwise provided by applicable law, the ROW occupant, at no cost to the Authority, shall accomplish the necessary relocation within a reasonable time from the

date of the notification, but, in no event, no later than seven working days prior to the date the Authority has notified the ROW occupant that it intends to commence its work, or immediately in the case of emergencies.

7. Preliminary Reviews & Mapping of Installations

What is the issue:

Local governments may not have current, up-to-date maps of ROW infrastructure within the local government boundaries (e.g., pole infrastructure locations and designs). From a planning perspective, cities and broadband providers will benefit from such maps in the long term. But, in the short term, broadband providers view these reviews as additional delays to their ability to deploy.

Current language under discussion:

Preliminary reviews and mapping of new & existing installations. A local government may, as a preliminary matter, require maps and may conduct the following reviews prior to granting permission for installations[, but such reviews shall not extend beyond 60 days following receipt of an application]. (A) Inventory of existing available space. Review the number and location of existing poles on local streets that can accommodate “ground-based” wireless installations (as opposed to “strand-based”).

8. Make-ready Requirements

What is the issue:

There is a lack of consensus as to whether to include make-ready requirements in the Model Code. There are concerns around local government authority over make-ready decisions, impact on public safety, the implications for what types of contractors would be allowed to do this work, advanced notice requirements, what constitutes a non-complex installation, and impact on collectively bargained union jurisdiction over make-ready work.

9. Evaluation of Potential Demand for Wireless Installations on Existing Poles or Other Possible Rights-Of-Way Locations

What is the issue:

There are many demands in the public ROW, including electricity, water, sewer, traffic signals, and street lights in addition to pedestrian and vehicle traffic amongst other uses. The ability to plan for the longer term and balance operational demands over years is useful for local governments. However, broadband providers may not have visibility into network deployment needs and/or be unwilling to share those plans due to a number of factors including competitive interests, retaining flexibility in network deployment, or lack of clarity on long-term funding streams. Therefore, striking the right balance between these interests is important. In our on-going discussions, broadband providers and local governments have differing views on how best to balance these interests.

Current language under discussion:

Initial inquiry to industry regarding anticipated request volumes and most useful locations. A Request for Information (“RFI”) process may be considered, prepared to ensure serious, complete and useful responses while protecting competitively sensitive information and allowing flexibility for providers going forward to adjust requests based on changing technological and market conditions and to accommodate additional competitors as they arise.

Model Code Commentary: Local decision-makers are encouraged to recognize that expanding the availability of wireless broadband services can enhance local quality of life in many ways, such that local jurisdictions may choose additional levels of flexibility with respect to terms and conditions for allocation of ROW space occupancy that might otherwise prevail with respect to proposed above-ground installations that may serve some purposes with more limited quality of life scope or impact.

Review status of alternative non-ROW locations to evaluate the degree to which demand can be served via private sector locations. [Model Code Commentary: Private property owner leasing of sites for wireless installations is a meaningful revenue source for property owners in many communities and local jurisdictions may wish to be sensitive to unduly prejudicing the market toward publicly-owned, as opposed to privately-owned, locations. Unduly prejudicing the market toward use of public ROW space, in comparison to privately-owned locations, may also discourage ongoing technological and design innovation that could facilitate more effective use of private property locations.]

Evaluation of competing current and potential future demands on available ROW space. Possible users of space for wireless facilities in addition to commercial wireless providers may include public safety and traffic agencies, electrical, water or other utilities pursuing wireless meter reading, smart grid and other initiatives, etc. The degree to which these uses may be compatible with proposed commercial installations may depend on the specific space, technology and operational demands of the applicable alternative uses and the available ROW facilities.

10. Eligible Facilities Requests

What is the issue:

Under current federal law, “Eligible Facilities Requests” are subject to mandatory approval and timeframe for granting of such approval. There is disagreement among working group members regarding what constitutes an Eligible Facilities Request, whether it includes collocations on structures located in the ROW, and whether reasonable aesthetic restrictions (color, screening, etc.) may be imposed for such requests.

11. Mutual Aid

What is the issue:

Local governments are the first responders and coordinators of emergency and disaster response. Telecommunications are critical pieces of response, recovery, and resilience. Striking the right balance when requiring broadband providers to provide appropriate aid, data, and other critical information during a time of emergency is an important conversation that is on-going in the working group.

Current language under discussion:

Local governments with competitive infrastructure providers may consider developing or supporting a voluntary mutual aid consortium for competing providers to assist each other in large scale emergencies.

Resiliency. Local governments may consider requiring real time reporting to municipalities/local first responders in the event of outages and other emergency situations.

Transparency. Local governments may consider advocating for or requiring higher levels of transparency and reporting that will benefit consumers regarding wireless network outages, reliability, privacy and quality.

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DRAFT MODEL CODE FOR MUNICIPALITIES

Federal Communications Commission

Broadband Deployment Advisory Committee

Model Code for Municipalities Working Group

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Drafters' Explanation

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

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

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

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

NOTE: When considering adoption of this Model Code, local governments should keep in mind that there may be federal, state or local laws that could affect various terms and provisions set forth herein.

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I. Short Title, Definitions and Provisions

I.1. Short Title.

This Act is titled the “Encouraging Broadband Deployment Act,” and amends all applicable provisions of the [local government charter/code] and existing local laws relating to the subject matter of this Act.

I.2. Definitions.

- a. Administrative Review – Non-discretionary evaluation of an application by the zoning/land use administrator (or other appropriate staff) or designee. This process is not subject to a public hearing.

NOTE: The intent of this definition is to allow for streamlining of certain Applications, as specified in this Model Code.

- b. **“Antenna”** means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services or other wireless communications. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.
- c. **“Applicable Codes”** means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such have been adopted and are applicable in the jurisdiction where an Application has been submitted, subject to any applicable amendments to those codes.
- d. **“Applicant”** means any Person who submits an Application.
- e. **“Application”** means a [written?] request submitted by an Applicant to an Authority (i) for a Permit to locate or Collocate a Communications Facility; or (ii) to approve the installation or modification of a Utility Pole or Support Structure.
- f. **“Authority”** means the [city] or any agency, county, municipality, district or subdivision thereof or any instrumentality of the same, including, but not limited to public utility districts, irrigation districts and municipal electric utilities. The term shall not include state courts having jurisdiction over an Authority.
- g. **“Authority Pole”** means a pole or similar structure used for supporting wireline facilities in public rights-of-way of a local exchange carrier, or a provider of electricity, gas, water or steam owned, managed or operated by or on behalf of an Authority.
- h. **“Base Station” or “Wireless Facility”** is defined as provided below (see definition of “Wireless Facility”).
- i. **“Collocate”** means **TBD**.

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- j. **“Communications Facility”** means equipment at a fixed location or locations that enables FCC-licensed or FCC-authorized communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
- k. **“Communications Service Provider”** means a cable operator, as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a provider of telecommunications service, as defined in 47 U.S.C. § 153(53); a Wireless Provider, or any other provider of a service that is the functional equivalent of any service offered by a cable operator, a provider of information service, or a provider of telecommunications service.
- l. **“Decorative pole”** means **TBD**.
- m. **“Deployables”** means a portable, self-contained Communications Facility that can be moved to a specified location or area and provide wireless services on a temporary or emergency basis such as a “cell on wheels” or “COW,” “cell on light truck” or “COLT,” balloon, drone or other unmanned device.
- n. **“Existing Support Structures” (or “ESSs”)** are structures that are located in the Right-of-Way as of the time that installation of a Communications Facility on such structure is sought, and may include Utility Poles, Authority Poles, street light poles, traffic light poles, other street poles, or other existing street furniture to which Communications Facility installations may be attached.
- o. **“FCC”** means the Federal Communications Commission of the United States.
- p. **“Fee”** in connection with an Application or a Permit means a one-time, nonrecurring charge required by an Authority associated with the submission of such Application or the receipt of such Permit. Such Fee(s) may or may not be in addition to rental compensation [or other?] charges (one-time or recurring) required by an Authority with respect to the occupancy of public right-of-way or other publicly owned or managed property, depending on applicable law and practice in the applicable jurisdiction.
- q. **“Historic District”** means a group of buildings, properties, or sites that are either listed in the National Register of Historic Places or formally determined eligible for listing by the keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C.
- r. **“Law”** means any federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.
- s. **“New Support Structures” (or “NSSs”)** are new or additional structures (i.e., not located in the Right of Way as of the time that installation of a Communications Facility on such structure is sought) that could be installed for use to support Communications Facility installation. NSSs (i) may be specifically dedicated to siting of a Wireless Facility or Wireless Facilities *or* may be multi-

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purpose; (ii) may be constructed, owned and/or managed by either a local Authority *or* the Applicant (*or* a third party), (iii) may be of a design either matching existing poles or street furniture in the streets (if any) *or* of a different design for esthetic, engineering or other reasons, (iv) may supplement ESSs or replace existing ESSs.

- t. **“Non-Authority Pole”** means a pole in the ROW owned by an Investor Owned Utility.
- u. **“Ordinary Maintenance”** means ensuring that a Communications Facility and the structure to which it is attached are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a structure’s foundation. Ordinary Maintenance includes replacing antennas and related equipment of a similar size, weight, shape and color within an existing Wireless Facility.
- v. **“Permit”** means a written authorization required by an Authority to perform an action or initiate, continue, or complete a project.
- w. **“Person”** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an Authority.
- x. **“Rate”** means a recurring charge.
- y. **“Right of Way” or “ROW”** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, but not including a federal interstate highway or other area not within the legal jurisdiction, or within the legal maintenance responsibility of the municipality.
- z. **“Substantial Modification”** means a “Substantial change” to an “Eligible support structure” as those terms are defined [under applicable federal law].
- aa. **Tower** – Any structure built for the sole or primary purpose of supporting antennas used for any FCC-licensed or authorized wireless communications service. Tower includes self-supporting Towers, including monopole and lattice Towers, as well as guyed Towers. Tower does not include buildings, billboards, water tanks, or other structures whose primary purpose is not to support wireless antennas. Structures with such primary purpose are Towers even if they are designed to conceal the wireless antennas or purpose from the general public.
- bb. **“Utility Pole”** means a pole or similar structure that is owned or controlled by a utility, as that term is defined in 47 U.S.C. § 224(a)(1).
- cc. **“Wireless Facility” or “Base Station”** means a Communications Facility at a fixed location that enables FCC-licensed or FCC-authorized wireless communications between user equipment and a communications network. The term does not include: (i) the structure or improvements on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between wireless structures or Utility Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna.

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- dd. **“Wireless Infrastructure Provider”** means any Person, including a Person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, Wireless Facilities or Wireless Support Structures, but that is not a Wireless Services Provider.
- ee. **“Wireless Provider”** means a Wireless Infrastructure Provider or a Wireless Services Provider.
- ff. **“Wireless Services”** means personal wireless services as that term is defined in 47 U.S.C. § 332(c)(7)(C)(i) .
- gg. **“Wireless Services Provider”** means a Person who provides Wireless Services.
- hh. **“Non-ROW Wireless Support Structure”** means a structure, not located in ROW, designed to support or capable of supporting Wireless Facilities, and may include, for example, a monopole; a tower, either guyed or self-supporting; a billboard; or a building.

II. Governance of Deployment in Authority Controlled/Managed ROW

General provisions of a contract.

A Municipal Agreement [e.g., Franchise Agreement, Pole Attachment Agreement, License Agreement] is required to be entered into with an Applicant prior to receiving a Permit to install a Communications Facility in the ROW. The terms of such agreement will include the following:

Fees/Rates. TBD

Other Terms. A local government may consider, but is not limited to considering, the following terms in addition to fees and/or rental compensation charges when drafting contracts: term length, design requirements, safety requirements, ADA compliance, renewals or extensions, indemnification, insurance, termination and removal, abandonment, emergency notifications, relocation of facilities, and assignment. For example:

1. To the extent feasible, after taking into account availability, cost and quality considerations, an Applicant will endeavor to utilize vendors located in the [city/town/county] or nearby local area in connection with the construction and maintenance of its facilities.

2. An Applicant agrees to comply with all applicable federal, state, and local laws and regulations, including but not limited to those laws and regulations concerning Equal Employment Opportunity, the National Labor Relations Act, the Occupational Safety and Health Act, the Communications Act of 1934, the National Environmental Policy Act and the National Historic Preservation Act.

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Construction.

- (i) [TBD]

Coordination with municipal agencies.

Dig once.

Coordination.

Relocation of existing facilities.

Public disruption.

Hours of work.

Traffic control.

Noise/dust/debris provisions.

Cleanup and restoration.

Concrete/asphalt replacement.

Preliminary reviews and mapping of new & existing installations.

Inventory of existing available space.

- Utility Poles
- Authority Poles
- street light poles
- traffic light poles
- other street poles
- other existing street furniture amenable to wireless installations.

Together these are defined as Existing Support Structures “ESSs”. Inventory details may include categories such as street corner vs. mid-block, standard design vs. decorative design, etc.

Review capability of ESSs to accommodate one or more wireless installations.

- Physical Capacity: Weight bearing analysis, weather condition analysis, ability of pole to withstand penetration by attachment mechanisms, etc.
- Evaluation of current and impending future municipal and other public needs for attachments on ESSs: public safety

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(cameras, radio communications, FirstNet), “smart grid” telemetry devices (such as automated meter reading, outage tracking, etc.), signage, public wi-fi and other public information distribution and access facilities, etc. Review risks associated with coordinating such municipal needs with private sector installations on the same or nearby ESSs.

- Review access to electrical power for devices that require such power, review methods for coordination of the use of such power by private entities with existing public uses of such poles such as street lighting, traffic lights, signage.
- Review access to fiber optic capacity/conduit for devices that require such access and review coordination with any existing public uses.

Review potential availability/desirability of ROW for new or additional (i.e., not currently existing inventory) support structures (that is, New Support Structures “ or “NSSs”) in the public ROW that could be installed for use to support Wireless Facility installation (see Section __ below). [Model Code Commentary: Note that approval of NSSs, as opposed to use of ESSs only, may increase the potential impact on streetscape esthetics, pedestrian and traffic clearance, etc.].

Evaluation of potential demand for wireless installations on existing poles or other possible rights-of-way locations..

Above Ground ROW. Local governments, depending on locality, scale and asset availability, among other things, may consider the following when developing additional requirements.

Deployments.

General Requirements.

ADA compliance.

Coordination with other ROW users.

Spacing/traffic concerns.

Pedestrian and vehicular traffic and safety.

Location of existing utilities.

Feasibility of New Small-Cell-Centric Poles.

Coordination with other ROW users.

Height.

Spacing/traffic concerns.

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Differentiate based on street type.

Guy wire / anchor placement.

Equipment Design Standards. TBD

Permitting – Above Ground. Street opening, building and other permits may be required by local governments.

Underground ROW.

General Principles.

- (i) The Authority shall have the power to establish reasonable limitations on the placement of new or additional facilities within specific congested segments of the ROW if there is insufficient space to accommodate all of the requests of ROW occupants. In making such decisions, the Authority shall strive to the extent possible to accommodate all existing and potential users of the ROW, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the width and physical condition of the ROW, the protection of existing facilities in the ROW and future plans for public improvements and development projects which have been determined to be in the public's interest.
- (ii) The Authority encourages the sharing of underground facilities. Leasing of excess space in ducts, conduits and on poles is a matter between interested parties; (subject to any applicable Pole Attachment Act obligations and any other applicable statutory, regulatory or contractual obligations); however, lessees of such physical facilities must still comply with the terms of this code, unless otherwise expressly exempted by the Authority.
- (iii) An ROW occupant shall employ due care during the installation and maintenance process, comply with all safety and ROW-protection requirements of applicable Federal, State and local law and regulation and any additional commonly accepted safety and ROW-protection standards, methods and devices (to the extent not inconsistent with applicable law and regulation). All facilities under the streets of the Authority shall be kept and maintained in a safe and well-ordered condition, and in good order and repair.

Underground Construction.

Depth. Unless agreed to in writing in advance by the Authority, the depth of installed facilities shall be, at a minimum, as follows:

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- (a) If the road style and other conditions permit, microtrenching no more than sixteen (16) inches in soil;¹
- (b) Twenty-four (24) inches in soil, if conditions do not permit microtrenching;
- (c) Twenty-four (24) inches below a projected slope from the flowline of a ditch at a three (3) horizontal and one (1) vertical slope;
- (d) Forty-eight (48) inches under a roadway measured from the surface of said roadway to the top of the installation;
- (e) Forty-eight (48) inches under a stormwater or creek channel design flowline; and
- (f) Cross under all water and natural gas lines at a depth of twenty-four (24) inches.
- (g) Excavations shall be promptly backfilled according to Authority standards and the earth shall be restored to original grade to assure no hazard to vehicular or pedestrian traffic. The ROW occupant shall perform all necessary compaction tests in accordance with the latest design and construction specifications approved and disseminated by the Authority setting forth requirements for backfill and paving cut repairs (e.g., standard concrete pavement cut and repair; standard asphalt pavement cut and repair, etc.).
- (h) The repair or replacement of any sidewalk, any driving surface and the base of any roadway shall comply with Authority standards, pursuant to engineering plans on file with the Authority and may require additional removal to the nearest joint in all directions. Unless a privately-financed public improvement application is filed, this removal and all pavement restoration shall be the responsibility of the Authority or its assigned contractor at the expense of the ROW occupant.
- (i) An ROW occupant shall not proceed with additional trench work exceeding a maximum of five hundred (500) feet of open trench without the approval of an Authority inspector.

Casement. Underground conduit shall be placed in such a manner so it can be located by the ROW occupant. All conduit should have sequentially marked footage at every foot. The approved methods of locating conduit are by using locatable pull tape,

¹ Micro-trenching is a low-impact deployment methodology in which fiber and conduit are inserted into a slot-cut trench 2 inches wide and between 16 inches deep – without damaging or disrupting existing infrastructure. The cost savings, speed of deployment and reduction in resources, over conventional trenching is compelling.

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installing a ground wire, using a toneable duct or installing armored cable. All ROW occupants shall make all reasonable efforts to ensure that all existing facilities shall be marked during the normal course of business.

Warning Signage.

- (a) Any permittee excavating or obstructing any portion of the ROW shall erect a temporary sign displaying either: (1) The names of the ROW occupant, any contractors and/or subcontractors involved in the project and the Authority permit number authorizing said activity; or (2) the names of the ROW occupant and a local telephone number or toll free number manned during regular business hours by a person who is knowledgeable about the construction project. The sign shall be visible from any adjacent traffic lane and shall be maintained throughout the duration of the project.
- (b) All vehicles used, parked or stored by or on behalf of a ROW occupant or permittee within a permitted construction zone shall be clearly marked, providing the name of the facility's owner, the permittee, the contractor or subcontractor. Any unmarked vehicles shall be subject to all moving and parking ordinances. Private vehicles shall not be permitted to be parked or stored within any permitted work zone at any time.
- (c) A current ROW construction permit shall be maintained on each work site. The ROW construction permit shall be presented upon request to any Authority representative.

Placement of facilities. Underground facilities shall be placed between the property line and the curb line of all streets and avenues. Underground facilities shall have consistent alignment parallel with the edge of pavement and shall have two-foot horizontal clearance from other underground utilities and their appurtenances.

Traffic Control.

- (a) Any permittee occupying any portion of ROW shall erect a barrier around the perimeter of any excavation and provide any and all traffic-control devices, signs and lights appropriate to the level of complexity of the activity in order to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic-control plan in accordance with the Uniform Manual of Traffic Control Devices.
- (b) ROW occupants with open excavations awaiting final restoration shall maintain all devices until the Authority notifies the ROW

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occupant in writing that the Authority or the Authority's designated contractor is assuming responsibility for traffic control.

- (c) Each ROW occupant shall designate a safety officer. The safety officer shall be responsible for safety-related issues affecting both the public and the ROW occupant's field employees and contractors for all job sites within the rights-of-way.

Location of Existing Facilities.

- (a) An ROW occupant shall not place any fixtures or equipment where the same will interfere with any existing facility. An ROW occupant shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any ROW.
- (b) To minimize disruption of public passage or Infrastructure, to forestall or relieve exhaustion of ROW, or to protect environmentally sensitive areas, the Authority may require, as a condition of issuing any ROW permit for placement of underground facilities that the ROW occupant place empty conduits in excess of its own present and reasonably foreseeable requirements for the purpose of accommodating the Authority's use. The ROW occupant shall cooperate with the Authority in any such construction, provided that the Authority has first notified the ROW occupant in writing that it is interested in sharing the trenches or bores in the area where the construction is occurring. The ROW occupant shall allow the Authority to place its Infrastructure in the ROW occupant's trenches and bores as requested by the Authority, provided that the Authority incurs a proportionate share of the costs of trenching, boring, and placing the conduit/infrastructure. The Authority shall be responsible for maintaining its facilities buried in the trenches and bores or otherwise placed in the ROW under this section.
- (c) Before beginning excavation in any ROW, an ROW occupant shall contact the regional notification center for subsurface installations (One-Number Locator Service) to determine possible conflicts.

Relocation of Existing Facilities.

- (a) If relocation of facilities is required as a result of any public project, the Authority shall provide at least 90 days' notice to any ROW occupant. Unless otherwise provided by applicable law, the ROW occupant, at no cost to the Authority, shall accomplish the necessary relocation within a reasonable time from the date of the notification, but, in no event, no later than seven working days

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prior to the date the Authority has notified the ROW occupant that it intends to commence its work, or immediately in the case of emergencies.

- (b) In the event of an Emergency, or where any facility in the ROW creates or is contributing to an imminent danger to health, safety, or property, the Authority may protect, support, temporarily disconnect, remove, or relocate any or all parts of such facility without prior notice, and charge ROW occupant for costs incurred.

Abandonment of Facilities.

- (a) Any ROW occupant that intends to permanently discontinue use of any facilities within the ROW shall notify the Authority in writing of the intent to discontinue use. Such notice shall describe the facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than 30 days from the date such notice is submitted. Upon notification, the Authority will identify the following options available to the ROW occupant:
 - (1) Abandon the facility in place and the ROW occupant shall further convey full title and ownership of such abandoned facilities to the Authority. The ROW occupant is responsible for all obligations of the facilities, or other associated liabilities until the conveyance to the Authority is completed; or
 - (2) The facilities shall be removed and the ROW occupant shall be liable for removing the facilities at its own cost. If an ROW occupant fails to remove facilities that the Authority requires it to remove, the Authority may perform the work and collect the cost from the ROW occupant.
- (b) The Authority shall use reasonable discretion to determine a time period to remove facilities based upon the size of the facilities and scope of deployment throughout the Authority. In no case shall an ROW occupant with facilities deployed Authority--wide be provided less than twelve (12) months to remove its facilities.

ROW Easements.

a TBD:

CORRIDORS. The Authority engineer shall assign specific corridors within the right of way, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, that the Authority engineer expects will someday be located within the right of way. All excavation, obstruction, or other permits

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issued by the [city] engineer involving the installation or replacement of equipment shall designate the proper corridor for the equipment.

LIMITATION OF SPACE. The Authority engineer shall have the power to prohibit or limit the placement of new or additional equipment within the right of way if there is insufficient space to accommodate all of the requests of applicants or persons to occupy and use the right of way. In making such decisions, the Authority engineer shall strive to the extent possible to accommodate all existing and potential users of the right of way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right of way, the time of year with respect to essential utilities, the protection of existing equipment in the right of way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

MAPPING DATA. Applicants shall provide to the Authority engineer information indicating the horizontal and approximate vertical location, relative to the boundaries of the right of way, of all equipment which it owns or over which it has control and which is located in any right of way. Mapping data shall be provided with the specificity and in the format requested by the [city] engineer for inclusion in the mapping system used by the [city] engineer.

Existing Utility Easements in the Right of Way.

- (a) Applicants will work with the Authority engineer to coordinate and protect existing utilities in the ROW.
- (b) Applicants will coordinate with the Authority engineer all public safety considerations prior to and during installation in the ROW to ensure public safety response in the case of gas line, water line or electricity disturbance.

Drop Agreements.

- (a) LOCATE – Applicants will use a location service/agency to locate and mark existing utilities in the public right of way before excavation.
- (b) FAST-TRACK – Authority should define those installations that may be fast-tracked due to their minimal impact to the ROW. This may include micro-trenching and other minimally invasive techniques. A process should be developed to move fast-tracked applications through the system quickly.

III. Governance of Deployment Outside of Authority Controlled/Managed ROW

Above Ground.

General Provisions.

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(i) Non-ROW Applications for Collocations. Applications for Collocations on Non-ROW Wireless Support Structures shall be treated in conformance with the requirements of [applicable federal law].

(ii) Non-ROW Applications not covered by the preceding subsection (i). Applications regarding space outside the ROW and not covered by the preceding subsection (i) shall be treated in accordance with [applicable federal law].

Eligible Facilities Request.

1. Definition (see FCC Ruling) - Eligible Facilities Request.²
TBD:
 - collocation of new transmission equipment;
 - removal of transmission equipment; or
 - replacement of transmission equipment.

(iii) New Structures.

Non-conforming Towers.

Applications for Eligible Facilities Requests and Substantial Changes on an existing non-conforming Tower shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use.

Permitting Process.

Collocations.

Eligible Facilities Requests.

1. Collocation of Wireless Facilities that qualify as Eligible Facilities Requests are permitted in all zoning districts. An Eligible Facilities Request shall mean any request for **TBD**.
2. **TBD**.

Process. [DRAFTERS NOTE – NEED A NON-DISCRETIONARY PROCESS THAT CAN BE COMPLETED WITHIN 90 DAYS TO COMPLY WITH FCC ORDER]

1. Applications for Eligible Facilities shall be subject to Administrative Review to determine eligibility and compliance with Applicable Codes.

Wireless Facilities contained completely within a privately-owned building shall be subject to Administrative Review to determine compliance with Applicable Codes and other applicable legal and regulatory standards. Installation of Wireless

² See 47 U.S.C. 1455(a); 47 C.F.R. 1.40001(b)(3).

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Facilities contained completely within a building owned or managed by an Authority shall be locate at such Authority's discretion in exercising its general authority as owner or manager of such property.

Compound expansions for Wireless Facilities on Towers.

1. If the proposed Wireless Facility would qualify as an Eligible Facilities Request but for the placement of ground equipment outside the current site or compound, but the proposed Wireless Facility meets the underlying setbacks for the type of equipment being installed on the ground and any landscaping or fencing requirements applicable generally in that location, the application should be subject to Administrative Review.
2. If the proposed Wireless Facility would qualify as an Eligible Facilities Request but for the placement of ground equipment outside the current site or compound, and the proposed Wireless Facility does not meet the underlying setbacks for the type of equipment being installed on the ground and any landscaping or fencing requirements applicable generally in that location, the application should be subject to whatever approval process would apply to an application for the ground equipment generally.

Tower replacement.

1. If the proposed Wireless Facility involves the replacement of the underlying Tower with a similar structure, but otherwise would qualify as an Eligible Facilities Request in terms of height, etc., the Application should be subject to Administrative Review.

New structures.

Design standards.

1. Height.
2. Structure design.
 - Structure classification for existing Towers shall be evaluated under the latest version of ANSI/TIA-222.
3. Fencing/landscaping/signage.
 - Fencing.

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- a. Towers shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Authority.
 - b. The Authority may waive the requirement of Subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.
 - c. For locations where decorative fencing is otherwise required, the Authority may allow chain link fence upon a showing that a decorative fence would pose a risk for security or vandalism.
 - d. For Towers located within a floodplain where the ground equipment will be elevated on platforms, the Authority may waive any decorative fencing requirement in favor of chain link.
4. Landscaping. In all districts, the Authority shall have the authority to impose reasonable landscaping requirements surrounding the any ground-mounted equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The Authority may choose to not require landscaping for sites that are not visible from the public right of way or adjacent property or in instances where in the judgment of the Authority, landscaping is not appropriate or necessary.
- Signs located at the Communications Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

Setbacks for ground-mounted equipment.

1. Ground-mounted equipment for Wireless Facilities, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Tower. Any equipment not used in direct support of such operation shall not be stored on the site.
2. Ground-mounted equipment for Wireless Facilities must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the Authority.

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3. Lighting and Marking.
 - Towers shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
 - In all districts, appropriate security lighting meeting generally applicable standards for security lighting for the district shall be permitted.

Decision factors.

5. Collocation analysis.
6. Alternative site analysis.
7. Site design issues.

Exempt.

- (A) Ordinary Maintenance of existing Wireless Facilities and Towers, as defined herein, shall be exempt from zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this Ordinance: (1) antennas used by residential households solely for broadcast radio and television reception; (2) satellite antennas used solely for residential or household purposes; and (3) television and AM/FM radio broadcast towers and associated facilities.
- (iv) Temporary and Emergency Installations.
- (A) Deployables may be operated for a period of not more than [one hundred and twenty (120)] days, when operated in connection with a special event after issuance by the Authority of a Permit based upon an Administrative Review only. Deployables operated in conjunction with a special event shall meet applicable setbacks, shall be subject to receipt of a valid building permit, if applicable, shall meet uniform fire code requirements, and shall be removed within twenty-four (24) hours of completion of the event.
 - (B) Deployables may be operated in any zoning district [other than _____] after a declaration of an emergency or a disaster, upon consultation with and approval by the [Insert planning/building department public safety personnel].

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Underground-non-ROW

- b. Public Utility Easements – An easement where the landowner owns the easement, but the Authority has the property rights to use as a utility easement and governs the use of the easement.
 - (i) Landowner Determination – Private property owner, but property rights of the public utility easement are with the Authority.
 - (ii) Location of facility from set location –
 - (A) Corridors. The [city] engineer shall assign specific corridors within the public utility easement, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, that the [city] engineer expects will someday be located within the easement. All excavation, obstruction, or other permits issued by the [city] engineer involving the installation or replacement of equipment shall designate the proper corridor for the equipment.
 - (B) Limitation of Space. The [city] engineer shall have the power to prohibit or limit the placement of new or additional equipment within the easement if there is insufficient space to accommodate all of the requests of applicants or persons to occupy and use the easement. In making such decisions, the [city] engineer shall strive to the extent possible to accommodate all existing and potential users of the easement, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the easement, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future [city] plans for public improvements and development projects which have been determined to be in the public interest.
 - (C) Mapping Data. Applicants shall provide to the [city] engineer information indicating the horizontal and approximate vertical location, relative to the boundaries of the easement, of all equipment which it owns or over which it has control and which is located in the Public Utility Easement. Mapping data shall be provided with the specificity and in the format requested by the [city] engineer for inclusion in the mapping system used by the [city] engineer.
 - (iii) Existing Utility Easements
 - (A) Applicants will work with the [city] engineer to coordinate and protect existing utilities in the public utility easement.
 - 1. Applicants will coordinate with the [city] engineer all public safety considerations prior to and during installation in the public utility easement to ensure public safety response in the case of gas line, water line or electricity disturbance.

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- (iv) Drop Agreements
 - (A) Locate – Applicants will use a location service/agency to locate and mark existing utilities in the public utility easement before excavation.
- c. Private Utility Easements – An easement granted between a private landowner and a utility.
 - (i) Landowner Determination – private property owner owns the land and retains the property rights
 - (ii) Location of facility from set location – determined between landowner and utility
 - (iii) Existing utility easements – Coordination between landowner and any existing utilities in their private easement
 - (iv) Drop Agreements
 - (A) Locate – Applicants will use a location service/agency to locate and mark existing utilities in the private utility easement before excavation.

IV. TBD, IF NEEDED

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**APPENDIX A
Right of Way Utility Installation Application**

Applicant Information

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

Project Information

Location(s): _____

Project Description: _____

Portion(s) of the right of way affected by project. (Select all that apply)

Street _____ Sidewalk _____ Shoulder _____

Work Types:

Telecommunications: _____ Linear Feet: _____ Underground _____ Aerial _____
Service _____

Other Infrastructure Impacts (Power/Gas/Sewer):

Right of Way Obstruction Request: (Select all that apply)

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

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Checklist:

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

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

A copy of the permit must be on-site of construction.

All fees must be paid prior to the start of construction.

Applicant/Permittee Signature

Date

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Utility Permit Requirements

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

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- C. **Application Approval:** The [city] shall review a complete application, associated plans and drawings in a timely manner, but under no circumstance longer than _____ days.
- D. **Inspection:** The [City] shall provide an inspector during the installation of all lines to review compliance with the Utility Permit. The inspector shall have the right, during reasonable hours and after showing proper identification, to enter any installation site in the discharge of the inspector's official duties, and to make any inspection or test that is reasonably necessary to protect the public health, safety and welfare. The applicant shall pay the actual costs for inspection of the project.
- E. **Issuance:** Upon approval of the application, the Utility Permit will be issued by the [city]. The permit fee will be \$_____ (Typically \$50 to \$200)
- F. **Remittance of Fees:** The applicant shall pay the actual costs of fees directly attributable to the installation inspection conducted by the [city]. Payment shall be made within thirty (30) days after completion of the installation. Payments not made in such time shall be subject to reasonable interest charges.
- G. **Requirements:** The applicant shall comply to the following requirements:
1. Construction signing shall comply with the Manual on Uniform Traffic Control Devices.
 2. A permanent warning tape shall be placed one (1) foot above all underground utility lines.
 3. Residents along the utility route shall have uninterrupted access to the public roads. An all-weather access shall be maintained for residents adjacent to the project.
 4. A joint assessment of the road surfacing shall be made by the applicant and the [city] both before and after construction. After construction, granular surfacing shall be added to an existing granular roadway, drive or parking area by the applicant to restore the surfacing to its original condition. After surfacing has been applied, the road surface shall be reviewed by the [city] once the road has been saturated, to determine if additional surfacing on the roadway by the applicant is necessary.
 5. All damaged areas within the ROW shall be repaired and restored to at least its former condition by the applicant or the cost of any repair work caused to be performed by the [city] will be assessed against the applicant. Portland cement concrete patches shall be 1" thicker than the removed portland cement concrete surfacing. Asphaltic cement concrete patches shall be 1" thicker than the removed asphaltic cement concrete surfacing.
 6. Areas disturbed during construction which present an erosion problem shall be solved by the applicant in a manner approved by the [city].
 7. All trenches, excavations, and utilities that are knifed shall be properly tamped.
 8. Cable, pipe line, and electrical line crossing paved roads shall be constructed as follows: Utilities designated by the [city] which cross under the roadway shall be placed in casings so that the pipe may be removed for repair without disturbing the subgrade. The casing shall be adequate strength, and of sufficient length to extend

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- two (2) feet beyond each edge of the surfaced roadway. On paved roads, cable casings may be placed through the sub-grade by jacking, or by boring a hole just large enough to take the line. All open excavations near pavement shall be of sufficient distance from pavement to prevent soil collapses resulting in undermining of pavement.
9. On roads not paved, an open trench may, upon approval of the [city], be dug and the cable, pipeline, or electric line placed therein, and the trench backfilled over the line. All backfilling of tunnels and trenches shall be thoroughly compacted in layers of 6" or less in depth. Backfilling of trenches within the ROW shall be tamped sufficiently to avoid settlement. All work shall be one in a workmanlike manner, and the ground left in a neat condition, satisfactory to the [city] in charge.
 10. To restore all excavations not in road surfaces but in [city] right of way with sod or seed as directed by the [city] to a condition that is equal to or better than existing prior to the construction of the project.
 11. All overhead utilities shall be placed at a distance of two (2) feet inside the ROW line unless specifically approved otherwise by the [city].
 12. Location and protection of all underground utilities is the applicant/contractor responsibility. The applicant/contractor will be required to coordinate work with the utility companies. Utility locations are coordinated by calling _____ (One Call). Existing utilities and services lines that coincide with proposed underground main locations are to be located in advance by the applicant/contractor such that proposed underground utilities can be adjusted to eliminate conflicts.
- H. **Non-Conforming Work:** The [city] may halt the installation at any time if the applicant's work does not meet the requirements set forth in this Utility Permit.
- I. **Emergency Work:** In emergency situations, work may be initiated by an applicant without first obtaining a Utility Permit. However, a Utility Permit must be obtained within fourteen (14) days initiation of the work. All emergency work shall be done in conformity with the provisions of this Utility permit and shall be inspected for full compliance.
- J. **Violation of Ordinance:** Violation of any of the provisions of this Utility Permit shall be a simple misdemeanor punishable with a civil penalty of \$_____ for each violation. Each day that a violation occurs or is permitted to exist by the applicant constitutes a separate offense.
- K. **Hold Harmless:** The utility company shall save this [city] harmless of any damages resulting from the applicant's negligence or willful misconduct. A copy of a certificate of insurance naming this [city] as an additional insured for the permit work shall be filed with the [city]. office prior to installation. The minimum limits of liability under the insurance policy shall be \$_____.
- L. **Surety or Cash Bond:** The contractor or applicant shall have on file with the [city] a surety bond or cash bond for restoration of areas within the ROW and on utility easements. This bond shall be a minimum of \$_____ and may be of greater value depending on the scope of the project. A cash bond shall be held for 90 days after date of completion.

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- M. **Permit Required:** No applicant shall install any lines unless such applicant has obtained a Utility Permit from [city] and has agreed in writing that said installation will comply with all ordinances and requirements of the [city] for such work. Applicants agree to hold the [city] free from liability for all damage to applicant's property which occurs proximately as a result of the applicant's failure to comply with said ordinances or requirements.

- N. **Relocation:** The applicant shall, at any time subsequent to installation of utility lines, at the applicant's own expense, relocate or remove such lines as may become necessary to conform to new grades, alignment or widening of ROW resulting from maintenance or construction operations for highway improvements.

Doc #01-3071422.10

**FCC Broadband Advisory Committee
Model Code for Municipalities Working Group
Item to be voted upon at 11/9/17 Meeting**

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

In light of the FCC’s charge, and given the importance of broadband deployment to America’s economic competitiveness as well as creating educational and employment opportunities for our population, the Working Group developed the following set of guiding principles to focus its work. **The Working Group seeks review and approval by the full BDAC of the guiding principles.**

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