

**STANDARDS FOR
SMALL CELL WIRELESS FACILITY PLACEMENT IN
PUBLIC RIGHT-OF-WAY**

Section 1. Definitions. The following terms and definitions shall apply to these regulations.

“Applicable Code” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons, and local regulations and specifications to the extent not inconsistent with the terms of this Chapter.

“Applicant” means any person, firm or corporation applying for permits or other approvals required by this ordinance.

“Application” means a request submitted by an applicant (i) for a Permit to collocate small wireless facilities; or, (ii) to approve the installation or modification of a utility pole or wireless support structure.

“City Owned Pole” means (i) a utility pole owned or operated by the City in the rights- of-way, including a utility pole that provides lighting or traffic control functions, or other law enforcement functions, including but not limited to light poles, traffic signals, and structures for signage, poles used by the City to deliver electric service to customers, and (ii) a pole or similar structure owned or operated by the City in the ROW that supports only wireless facilities.

“Collocate” means to install, mount, maintain, modify, operate, or replace Small Cell Wireless Facilities on or adjacent to a wireless support structure or utility pole. “Collocation,” has a corresponding meaning.

“Day” means calendar day unless there is a time frame for the City to respond to a request and the last day to respond ends on a weekend, holiday, or time when all but City emergency services are closed due to weather or some unforeseen situation.

“Fee” means a one-time charge.

“Rate” means a recurring charge.

“Rights-of-Way” or “ROW” means that area on, below, or above a roadway, highway, street, sidewalk, street side utility easement, but not including a federal interstate highway, in the City.

“Small Cell Wireless Facility” means a wireless facility that meets both the following qualifications: (i) each antenna shall be located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet; and (ii) all other wireless equipment associated with the facility is in accordance with Section 7.

“Utility Pole” means a pole of similar structure, not owned by the City, that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control signage, or a similar function regardless of ownership. Such term shall not include structures supporting only Wireless Facilities or a City Owned Pole.

“New Pole” means a utility pole proposed by a wireless service provider with the purpose of carrying small cell wireless facilities.

“Replacement Pole” means a pole proposed by a wireless service provider that will stand in lieu of an existing utility pole with the purpose of carrying small cell wireless facilities and adopting the duties of said existing utility pole.

“Wireless Facility” means any unstaffed facility for the transmission or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve necessary elevation.

“Wireless Services” means any services, whether at a fixed location or mobile, provided it is using Wireless Facilities.

“Wireless Services Provider” means a Person who provides Wireless Services or who builds wireless support structures or installs small wireless facilities.

“Wireless Support Structure” means a freestanding structure, such as: a stealth monopole (e.g., see Exhibit “A”); tower, either guyed, or self-supporting; or, other existing or proposed structure designed to support or capable of supporting Small Cell Wireless Facilities. Such term shall not include a Utility Pole.

Section 2. Exemption from Zoning.

Small cell wireless facilities shall be exempt from Sec. 601.27 Wireless Communication Facilities (WCF) in Chapter 14 of the Zoning Code.

Section 3. Purpose and scope for regulating Small Cell Wireless Facilities.

(a) The purpose of this Ordinance is to provide policies and procedures for the placement of Small Cell Wireless Facilities in rights-of-way within the jurisdiction of the City of Somerville, Massachusetts, which will provide a public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

(b) It is the intent of this Ordinance to establish uniform standards to address issues presented by small wireless facilities including, but not limited to:

- (1) Prevention of interference with the use of streets, sidewalks, alleys, parkways, traffic light poles or other light poles, and other public ways and places; and,
- (2) Prevention of the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic; and,
- (3) Prevention of interference with other facilities and operations of facilities lawfully located in City rights-of-way or public property; and,
- (4) Protection against environmental damage, including damage to trees or shrubbery including, but not limited, those items planted pursuant to City landscaping, zoning, tree preservation, or other City policies;
- (5) Preservation of the character of neighborhoods in which facilities are installed; and,
- (6) Preservation of the historical character of historic structures, or historic neighborhoods, including but not limited to such structures or neighborhoods listed in Local Historic Districts or on the National Register of Historic Places; and,
- (7) Facilitation of the rapid deployment of small wireless facilities to provide the citizens with the benefits of advanced wireless services.

Section 4. Permit required for placement in right-of-way.

(a) *Applicability.* No person shall place a Small Cell Wireless Facility in the right-of-way without first filing an agreement with the legal department, a Small Cell Wireless Facility application and obtaining an approved Grant of Location, except for routine maintenance and replacement described below and as otherwise provided in this Ordinance,

- (1) routine maintenance; and,

- (2) the replacement of a Small Cell Wireless Facility with another Small Cell Wireless Facility that is substantially similar or smaller in size, weight, and height;
- (3) Provided, however, on a location where the City or another provider has placed equipment or facilities, any routine maintenance or replacement that is done shall not occur until written notice of an intent to proceed is provided to the City.

(b) *Application process and requirements.* All Small Cell Wireless Facility applications for permits shall be submitted to the Somerville Engineering Department in accordance with current policies and procedures, as required by the City. The Small Cell Wireless Facility permit application shall be made by the Wireless Provider, or its duly authorized representative as noted in a notarized statement from a Person with the Wireless Provider who represents authority to make such an authorization, and shall contain the following:

- (1) The Applicant's name, address, telephone number and e-mail address;
- (2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
- (3) A general description of the proposed work and the purposes and intent of the Small Cell Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters, including but not limited to sub-surface utilities, likely to be affected or impacted by the work proposed;
- (4) Authorization for any consultant acting on behalf of the Applicant to speak with the City, or a designee of the City, on the area of consultation for the Applicant even if the Applicant cannot be available;
- (5) Verification from an appropriate professional that the Small Cell Wireless Facility shall comply with all Applicable Codes.
- (6) Drawings and description of the proposed facilities, non-tower support structures, and accessory equipment - including street/eye level three-dimensional visualizations.
- (7) Maps of the proposed site with geographic coordinates of the specific locations.
- (8) Digital files of the geographic coordinates in a format approved by the City.

- (9) A letter of agreement for use between the owner of the facility and non-tower support structure.
- (10) A surveyed site plan.
- (11) A description of any request for waivers of this ordinance.

(c) *Confidential and proprietary information.* Proprietary or confidential information shall be included in the Small Cell Wireless Facilities application.

(d) *Information updates.* Any amendment to information contained in a permit application shall be submitted in writing to the City within thirty (30) days after the change necessitating the amendment, provided that this thirty (30) day notice period does not preempt Section 3(E)(iii) as to notice of routine maintenance and replacement.

(e) *Review of Small Cell Wireless Facility applications.* The City shall review the application for a Small Cell Wireless Facility permit in light of its conformity with applicable regulations of this Ordinance, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

- (1) Within ten (10) days of receiving an application, the City shall determine and notify the applicant:
 - a. Whether the application is complete; or
 - b. If the application is incomplete, notify the applicant in writing that the application is incomplete, identify the documents or information that is missing, and specify the code provision, ordinance, application instructions or other publicly-stated procedures that require the documents or information to be submitted;
- (2) The City shall make its final decision to approve or deny the application within forty- five (45) days of the filing of the application. The 45-day period may be tolled only by mutual agreement between the applicant and the City or in cases where the City properly and timely determines that the application is incomplete as submitted. The timeframe for review is not tolled by moratorium on the review of applications. In cases of tolling for incompleteness, the applicable timeframe for review resumes once the applicant supplies the documents or information that the City identified as missing.
- (3) The City shall notify the applicant in writing of its final decision, and if the application is denied:

- a. Specify the basis for denial; and,
 - b. Cite specific code provisions from federal, state, or local codes provisions as to why the application was denied.
- (4) Notwithstanding the initial denial, the Applicant may cure any deficiencies identified by the City within thirty (30) days of the denial without paying an additional application fee, provided the City shall approve or deny the revised application within thirty (30) days of receipt of the amended application which shall be limited to the deficiencies specified in the original notice of denial:
- a. If the City fails to act upon an application within the sixty (60) day review period, the Applicant, after providing written notice to the City that the application period has lapsed, shall receive a written approval notice within 10 business days.
 - b. An Applicant seeking to construct, modify or replace a network of Small Cell Wireless Facilities may, at the Applicant's discretion, file a consolidated Application for up to ten (10) Small Cell Wireless Facilities and receive a single permit for multiple Small Cell Wireless Facilities.

(f) Installation of a Small Cell Wireless Facility on a new or replacement utility pole may be approved by the Somerville Engineering Department so long as the proposed new structure and Small Cell Wireless Facility would not exceed the maximum height permitted in the zone in which it is located.

(g) Collocation, modification or replacement of a wireless facility shall be approved by the Somerville Engineering Department if it does not substantially change the physical dimensions of the tower or base station within the meaning of 47 U.S.C, § 1455(a).

(h) *Review of eligible facilities requests.* Notwithstanding any other provision of this chapter, the City may not deny, and shall approve, applications for eligible facilities requests pursuant to 47 U.S.C. § 1455(a), within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

Section 5. Effect of permit.

(a) *Authority granted: No property right or other interest created.* A permit from the City authorizes an Applicant to undertake only certain activities in accordance with the Ordinance and does not create a property right or grant any authority whatsoever to the Applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.

(b) *Duration.* Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless both City and Applicant agree to a reasonable extension and all required fees are paid for the term regardless of construction.

(c) *Emergency Removal or Relocation of Facilities.* The City retains the right to cut or move any Small Cell Wireless Facility located within its rights-of-way as the City, in its sole discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Wireless Provider and Wireless Infrastructure Provider an opportunity to move its own facilities prior to the City cutting or removing a facility and the City shall notify the Wireless Provider after cutting or removing a Small Cell Wireless Facility.

(d) *Abandonment of Facilities.* Upon abandonment of a Small Cell Wireless Facility within the City rights-of-way, the Wireless Provider shall notify the City within ninety (90) days of such abandonment. Following receipt of such notice the City may direct the Wireless Provider, at the Wireless Provider's expense, to remove all or any portion of the Small Cell Wireless Facility if the City, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

(e) *Abandonment by Inaction.* At any point where a Wireless Provider fails to pay any necessary fee, or annual payment to the City, and fails to respond within sixty (60) days to a written inquiry from the City as to whether the Wireless Provider intends to continue to operate pursuant to the City's Master Lease for Small Wireless Facilities, for whatever reason, the Small Wireless Facility shall be deemed abandoned and the City may, at its sole option, remove all or any portion of the Small Wireless Facility, or take other action as authorized by law.

Section 6. Fees and Rentals. The following fee schedule establishes the fees and an annual payment or lease of City rights-of-way for Small Wireless Facilities as follows:

(a) *Application Fees.* Unless otherwise provided by law, all applications for permits pursuant to this Chapter shall be accompanied by a fee for actual, direct, and reasonable costs incurred by the City related to processing the application, but shall not exceed \$500 for each small wireless facilities addressed in the application.

(b) *Use of Right-of-Way City Property Rental Rates.* A wireless provider authorized to place small wireless facilities in the rights-of-way shall pay to the City compensation for use of the rights-of-way in the amount of \$270 annually per Small Cell Wireless Facility.

(c) *Right of Wireless Provider to Cease Payment.* A wireless provider is authorized to remove its

facilities at any time from the rights-of-way and cease paying the City compensation for use of the rights-of-way as of the next due date for payment following the removal.

Section 7. Additional Provisions, Location and Design Standards for Small Cell Wireless Facilities.

(a) Small wireless facilities, and new or modified utility poles for the collocation of small wireless facilities may be placed in the rights-of-way as a permitted use subject to the following requirements:

(1) New Small Cell Wireless Facilities in the rights-of-way shall not extend:

- a. More than 5 feet above the height of an existing utility pole in the rights-of-way in place as of the effective date of this section; or
- b. The height for a new utility pole under subsection (h)(2); or
- c. Such greater height as authorized under applicable federal law.

(b) All Small Cell Wireless Facilities must adhere to the following height requirements, except if they conflict with federal law, the federal law shall control.

(1) *Existing structure mount.* Facilities mounted to an existing structure may not extend higher than five (5) feet above the existing structure;

(2) *Roof mount.* Facilities mounted on a roof shall be stepped back from the front facade to the extent technically feasible in order to limit their impact on the building's silhouette. Screening panels, if used, shall not exceed five (5) feet in height above the existing building's roofline;

(3) *Side-mount.* Facilities which are side-mounted on buildings shall be reasonably camouflaged and shall not extend above the roof line or extend more than two (2) feet from the facade of the building; and

(4) *Support structure.* A support structure outside of the public right-of-way that is not a building or a house shall not be taller than thirty-five (35) feet. The support structure must meet the setback requirements of the corresponding zoning district.

(c) *Right to occupy.* Once a wireless provider has installed small wireless facilities pursuant to an approval pursuant to this division, the wireless provider shall be permitted to continue to maintain such small wireless facilities unless required to remove or relocate under this division or state law.

(d) *No interference.* The City will not grant a permit or other authority for installation of small wireless facilities if the City knows or has reason to know that the proposed installation may

in any way interfere with the use and operation of an existing and operational Small Cell Wireless Facility for which the City has previously issued a permit.

(e) *Interference with public safety equipment:* A Small Cell Wireless Facility shall be operated and maintained in a manner that does not interfere with public safety equipment.

(f) *Visual obstruction.* A Small Cell Wireless Facility in the public right-of-way shall not visually obstruct traffic signals, signage, or sight distances.

(g) *Interference.* The Small Cell Wireless Facility shall not interfere with the following:

- a. City and public safety communication systems; or
- b. Area television or radio broadcast.

(h) *Guy wires.* A guy wire or other support wire shall not be used in connection with an antenna, antenna array, or a non-tower support structure except when used to anchor the antenna, antenna array, or non-tower supports structure to an existing building or ground to which such antenna, antenna array, or non-tower support structure is attached.

(i) *Poles.*

- (1) Only one installation per pole on a first come, first served basis is permitted.
- (2) The wireless equipment is not permitted to protrude more than five (5) feet above the streetlight luminaire, mast arm, utility wires or other existing top-of-pole use.
- (3) The mounting height of the luminaires on replacement poles shall match the existing mounting height.
- (4) Replacement poles shall match the existing streetlight poles being replaced in appearance, material, and function.
- (5) New poles shall match the adjacent poles in appearance and material.
- (6) The color and surface treatment of new and replacement poles shall match the surrounding area poles.
- (7) Pole heights shall be the same as all surrounding poles.
- (8) All pole attached wireless equipment must be a minimum 10 feet above the sidewalk elevation.
- (9) All other wireless equipment shall be located underground in handholes, valves, or ductbanks. No ground-mounted equipment or cabinets will be permitted.
- (10) All pole-mounted equipment shall match the color of the pole or it's luminaire.
- (11) For each replacement pole type or style used to support the wireless equipment, one spare replacement pole shall be provided by Licensee to the City at the end of the project so that the pole can be replaced promptly in case of a knockdown.

- (12) All plans shall be signed and sealed by a Professional Civil Engineer and a Professional Electrical Engineer.
- (13) All other details in the City of Somerville Street Light Design Standards and Engineering Standards shall apply.
- (14) Antennas shall be limited to snug-mount, canister-mount, and concealed antennas and mounted no more than (6) inches off the pole.
- (15) All cables or wires for the attached wireless equipment shall be located inside the pole. Exceptions: where such cables or wires attach to the ports in the antenna, or existing wood poles.
- (16) No additional cables or wires may be brought over-head from other poles. Any additional cables or wires must be brought in from underground via conduit.
- (17) When wireless equipment is attached to a replacement pole, the primary purpose of the pole shall remain as a pole structure supporting a streetlight luminaire, or power facilities and related fixtures as originally established within the City right-of-way.
- (18) New and replacement poles will follow all Americans with Disabilities Act requirements and standards for sidewalks.
- (19) New and replacement poles must maintain (48) inches of clear sidewalk width.
- (20) New pole location requirements:
- i. Minimum wireless equipment pole separation: (250) feet
 - ii. Minimum separation from intersection curb line: (50) feet
 - iii. Minimum separation from hydrant: (10) feet
 - iv. Locate new poles halfway between existing poles.
 - v. Minimum separation from tree: (10) feet
 - vi. Minimum separation from existing separation from existing water and sewer mains and laterals: (4) feet.
- (21) If the location of the Small Cell Wireless Facility does not meet the location criteria, the wireless service provider can apply for a waiver through the Somerville Engineering Department. The wireless service provider must show that the waiver is required in order to provide service.
- (i) *Signage.* A Small Cell Wireless Facility shall not display a sign unless:
 - (1) The sign displays emergency information, owner contact information, warning instructions, safety instructions, or is otherwise required by a federal, state, or local agency. Allowed sign on a Small Cell Wireless Facility shall not exceed one (1) square

foot in area. And,

- (2) Company 2-inch by 2-inch sign is required to be placed on each pole located 6-feet above sidewalk elevation. Sign must include company logo or name, and pole identification number.

(j) *Illumination.* A Small Cell Wireless Facility shall not have lights on the facility unless the lights are required by other laws and consistent with the requirements of law.

(k) *Fencing.* A Small Cell Wireless Facility shall not be fenced.

(l) *Design.* A Small Cell Wireless Facility shall be installed using stealth technology to the greatest extent practicable including without limitation the following:

a. *Reduced visibility.* Antenna arrays, cables, and other accessory facilities used for providing the wireless service shall not be obtrusive;

b. *Color.* The color of the facility shall be compatible with that of the non-tower support structure. All facilities located on buildings, roofs, or structures shall be painted or constructed of materials to match the color of the structure directly behind them to reduce the visibility of the Small Cell Wireless Facility; and

c. *Accessory facilities.* Accessory facilities mounted onto a non-tower support structure shall not project greater than three (3) foot, as measured horizontally, from the surface of the non-tower support structure and shall be painted or screened with materials that are a complementary color as the non-tower support structure. Cables shall travel along the exterior of a non-tower support structure.

(m) *Setbacks.* A Small Cell Wireless Facility that is not in the public right-of-way shall comply with the building setback provisions of the zoning district in which the Small Cell Wireless Facility is located. In addition, the following setbacks shall be observed:

a. Street-pole-attached and new non-tower support structures shall adhere to roadway clear zone guidelines when constructed within the public right-of-way;

b. Underground vaults or above-ground structures shall comply with the setback requirements of the underlying zoning district; and

c. Freestanding Small Cell Wireless Facilities or equipment enclosures shall not be located between the face of a structure and a public or private street, bikeway, park, or residential development.

(n) *Traffic signals.* A Small Cell Wireless Facility shall not be attached to a traffic signal or its equipment.

Section 8. Maintenance.

The owner of the Small Cell Wireless Facility shall promptly:

- a. Remove all graffiti on the particular owned Small Cell Wireless Facility at the owner's expense;
- b. Repair or replace any damaged equipment or poles, if owned by the small cell owner.

(o) *Tree Maintenance.* Operator, its contractors, and agents shall obtain written permission from the City before trimming trees in the right of way hanging over its small cell facility and/or wireless support structure to prevent branches of such trees from contacting an attached small cell facility. When trimming such trees on private property is desired, then before commencing any such work the operator, its contractors, and agents shall notify the property owner and the City and obtain the owner's permission. When directed by the City, operator shall trim under the supervision and direction of the City. The City shall not be liable for any damages, injuries, or claims arising from operator's actions under this section.