
MODEL MUNICIPAL ORDINANCE

Wireless Telecommunication Facilities

JUNE 26, 2020

WESTERN CONNECTICUT COUNCIL OF GOVERNMENTS
1 Riverside Road, Sandy Hook, CT 06482



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ORDINANCE NO. XXX
AN ORDINANCE OF THE [INSERT GOVERNING BODY OF CITY/TOWN] OF THE
[CITY/TOWN] OF [REDACTED]
OF THE [CITY/TOWN] MUNICIPAL CODE INTO A REVISED TITLE 10 WHICH
ESTABLISHES UNIFORM AND COMPREHENSIVE REGULATIONS FOR
WIRELESS TELECOMMUNICATION FACILITIES

WHEREAS, This Ordinance is adopted as follows:

- (1) The purpose of this Ordinance is to update the [City/Town] Municipal Code to provide uniform and comprehensive standards, regulations and permit requirements for the installation of wireless telecommunications facilities in the [City/Town] including on private property and in the municipal public right-of-way.
- (2) The wireless telecommunications industry has expressed interest in submitting applications for the installation of "small cell" wireless telecommunications facilities in the municipal public rights-of-way. Other Connecticut cities and towns have already received applications for small cells to be located within the public right-of-way.
- (3) If not adequately regulated, installation of small cell and other wireless telecommunications facilities within the public right-of-way can pose a threat to the public health, safety and welfare, including disturbance to the public right-of-way through the installation and maintenance of wireless facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; land use conflicts and incompatibilities including excessive height or poles and towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities which may negatively impact the unique quality and character of the [City/Town].
- (4) The [City/Town] currently regulates wireless telecommunications facilities – primarily telecommunication towers – through the zoning permit process. While this role is an advisory one, the Connecticut Siting Council gives consideration to municipal land use policies. The existing zoning standards have not been updated to reflect current telecommunications trends or necessary legal requirements. Further the primary focus of the zoning regulations is wireless telecommunications facilities located on private property, and the existing Code provisions were not specifically designed to address the unique legal and practical issues that arise in connection with wireless telecommunications facilities deployed in the public right-of-way or on private property outside of the purview of the Connecticut Siting Council.

(5) [Chapter 98, Section 7-163\(c\)](#) of the Connecticut General Statutes Code authorizes municipalities to establish telecommunication plans to identify areas where there may be deficiencies in coverage and to identify sensitive areas for restrictive use.

(6) [Chapter 98, Section 7-148\(c\)6\(C\)](#) authorizes municipalities to regulate telecommunications companies in so far as they impact its ability to (i) Lay out, construct, reconstruct, alter, maintain, repair, control, operate, and assign numbers to streets, alleys, highways, boulevards, bridges, underpasses, sidewalks, curbs, gutters, public walks and parkways; (ii) Keep open and safe for public use and travel and free from encroachment or obstruction the streets, sidewalks and public places in the municipality; (iii) Control the excavation of highways and streets; (iv) Regulate and prohibit the excavation, altering or opening of sidewalks, public places and grounds for public and private purposes and the location of any work or things thereon, whether temporary or permanent, upon or under the surface thereof.

(7) [Chapter 283, Section 16-228](#) of the Connecticut General Statutes authorizes telephone and telegraph corporations to construct telephone or telegraph lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

(8) [Chapter 283, Section 16-233](#) of the Connecticut General Statutes authorizes municipalities to make use of public utility poles and underground duct systems to establish municipal telecommunication systems for the general public in matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets by any public utility and the location of the poles, wires, mains, or conduits of any public utility on, under, or above any public streets.

(9) State and federal law has changed substantially since the [City/Town] last adopted regulations for wireless telecommunications facilities in the [City/Town]. Such changes include establishing "shot clocks" whereby the [City/Town] must approve or deny installations within a certain period of time. Federal regulations require local governments to act on permit applications for wireless facilities within a prescribed time period and state and federal laws and regulations permit applicants to invoke a deemed granted remedy when a failure to timely act occurs. See [47 U.S.C. § 332\(c\)\(7\)\(B\)\(iii\)](#); [47 C.F.R. §§ 1.6100 et seq.](#), and [Federal Register \(83 FR 51867\) Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment](#). Under federal law, a decision on certain applications must be made in as few as 60 days.

(10) The public right-of-way in the [City/Town] is a uniquely valuable public resource, closely linked with its natural beauty, and a significant number of residential communities. The reasonably regulated and orderly deployment of wireless telecommunications facilities including in the public right-of-way is desirable, and unregulated or disorderly deployment represents an ever-increasing and true threat to the health, welfare and safety of the community.

(11) The regulations of wireless installations including in the public right-of-way are necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the [City/Town], and to ensure that all wireless telecommunications facilities are installed using the least intrusive means possible.

(12) The [City/Town] finds that in light of more recent developments in federal and state law with respect to the regulation of small cell and other wireless telecommunications facilities, there is a need for the [City/Town] to update its ordinances based on current telecommunications trends, updates in laws, as well as aesthetic and location options for wireless facilities. The [City/Town] finds that overburdened utility poles can present a hazard of collapsing and failing; that wireless facilities may present an electrical hazard and/or increase the risk of electrical fires if not properly regulated, installed and monitored.

(13) The [City/Town] finds that a personal residence is for most homeowners their single greatest financial asset, and that proximity of wireless facilities has been shown to adversely affect property values of personal residences. The [City/Town] further finds that aesthetic considerations in residential zones are especially important in close proximity to personal residences.

(14) The [City/Town] recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare. The [City/Town] does not intend that this Ordinance prohibit or have the effect of prohibiting telecommunications service; rather, it includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities including in the public right-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act, the Connecticut Public Utilities Regulatory Authority and the Connecticut Siting Council statutes while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein.

(15) Accordingly, regulating the installation of Wireless Telecommunications Facilities in the [City/Town] is necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the [City/Town], and to ensure that all Wireless Telecommunications Facilities are installed using the least intrusive means possible.

Based on the foregoing, the [insert city/town governing board] finds and determines that the preservation of the public health, safety and welfare requires that this Ordinance be enacted.

WHEREAS, adoption of this Ordinance is consistent with the [City/Town]'s Plan of Conservation and Development. The [City/Town]'s Plan of Conservation and Development provides goals and policies to preserve the high-quality design, community character, aesthetics and environmental characteristics while also maintaining a strong, healthy economy for its local business and assuring the health and safety of the predominantly residential character of the community. Adoption of this Ordinance will provide uniform and comprehensive regulations and

standards for wireless telecommunications facilities in furtherance of these goals and objectives while reducing the potentially negative impacts.

NOW, THEREFORE, the **[insert city/town governing board]** of the Town of _____ does ordain as follows:

Section 1. The [insert name of city/town] Municipal Code is hereby amended as follows: A new Chapter 10 of the **[City/Town]** Municipal Code is hereby enacted as set forth in Exhibit A to this Ordinance, which is hereby incorporated as though set forth in full herein.

Section 2. The [insert city/town governing board] hereby finds that Adoption of this Ordinance will enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for the development of any new or expanded wireless telecommunication facilities anywhere other than where they were previously allowed under existing federal, state and local regulations. The wireless facilities themselves – specifically minor encroachment permits, and the installation of small equipment and facilities in a small structure – are exempt from CEPA. The Ordinance does not constitute a "project" within the meaning of the Connecticut Environmental Policy Act of 1971.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The **[insert city/town governing board]** of the **[City/Town]** of _____ hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 4. Effective Date. This Ordinance shall be effective 30 days following its adoption by the **[insert city/town governing board]**. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in public places in the **[City/Town]** of _____, as required by public notice requirements.

The foregoing ordinance was introduced at a regular meeting of the **[insert city/town governing board]** of the **[City/Town]** of _____ held in said **[City/Town]** on the ____th day of (month) 2020, and duly adopted at the next regular meeting of the **[insert city/town governing board]** on the ____th day of (month) 2020 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Exhibit A
ORDINANCE

Title (No 10): Telecommunications

WIRELESS TELECOMMUNICATIONS FACILITIES

10.04.010 Purpose

A. The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the [City/Town] of _____ to avoid visual impacts to the downtown, scenic corridors, residential and visually distinctive areas; to avoid impact to listed and candidate endangered species including habitats; and to provide a uniform and comprehensive set of standards for the orderly development of telecommunications facilities and installation of antennas. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the [City/Town]; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the [City/Town] consistent with the goals, objectives, and policies of the Plan of Conservation and Development; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new technology in the provision of wireless telecommunications facilities.

B. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally-equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; or (5) prohibit any collocation or modification that the [City/Town] may not deny under federal or state law.

10.04.020 Definitions. For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section, unless otherwise defined or the context clearly indicates or requires a different meaning.

A. "**Accessory Equipment**" means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning

units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

B. "**Antenna**" means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

C. "**Base Station**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(1), as may be amended, which currently defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. § 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this chapter, supports or houses equipment described in 47 C.F.R. § 1.6100(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this chapter, does not support or house equipment described in 47 C.F.R. § 1.6100(b)(1)(i)-(ii).

D. "**Building-mounted**" means mounted to the side or facade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.

E. "**Collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(2), as may be amended, which currently defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes.

F. "**Eligible Facilities Request**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), as may be amended, which currently defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission

equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

G. "**Eligible Support Structure**" means the same as defined by the FCC in 47 C.F.R. §1.6100(b)(4), as may be amended, which currently defines that term as any tower or base station as defined in this section; provided that it is existing at the time the relevant application is filed with the State or local government under this chapter.

H. "**Existing**" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4), as may be amended, which currently provides that a constructed tower or base station is existing for purposes of the FCC's Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process; provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

I. "**FCC**" means the Federal Communications Commission or its duly appointed successor agency.

J. "**Listed Species**" means any species, endangered, threatened or rare species as listed by the Department of Fish and Wildlife (CT Department of Energy and Environmental Protection), or the United States Fish and Wildlife Service (Endangered Species Act, 16 U.S.C. §§ 1531 et seq.).

K. "**Modification**" means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.

L. "**Monopole**" means a wireless communication facility support structure which consists of a self-supported monopolar structure, usually rounded, erected on the ground to support antennas and connecting appurtenances.

M. "**Non-Ionizing Electromagnetic Radiation**" means electromagnetic radiation primarily in the visible, infrared and radio frequency portions of the electromagnetic spectrum).

N. "**Personal Wireless Services**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

O. "**Personal Wireless Service Facilities**" means the same as defined in [47 U.S.C. § 332\(c\)\(7\)\(C\)\(i\)](#), as may be amended, which defines the term as facilities for the provision of personal wireless services.

P. **"Pole"** means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the [City/Town] Municipal Code.

Q. **"Public Right-of-Way or "Right-of-Way"** means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the [City/Town].

R. **"Reviewing Authority"** means the person or body who has the authority to review and either grant or deny a wireless telecommunications facility permit pursuant to this chapter.

S. **"RF"** means radio frequency or electromagnetic waves.

T. **"Roof-mounted"** means mounted directly on the roof of any building or structure, above the eave line of such building or structure.

U. **"Section 6409(a)"** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as such law may be amended from time to time.

V. **"Section 6409(a) Approval"** means the approval required by Section 6409(a).

W. **"Shared-Location"** means more than one wireless communications facility comprised of multiple structures used to support antennas operated by one or more carriers where the structures are located within proximity to each other.

X. **"Site"** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(6), as may be amended, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Y. **"Substantial Change"** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(7), as may be amended, which currently defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC's criteria and thresholds for a substantial change according to the wireless facility type and location.

1. For towers outside the public rights-of-way, a substantial change occurs when: a) the proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or b) the proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or c) the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or d) the proposed collocation or modification involves excavation outside the current boundaries of the

leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

2. For towers in the public rights-of-way and for all base stations, a substantial change occurs when: a) the proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or b) the proposed collocation or modification increases the width more than 6 feet from the edge of the wireless tower or base station; or c) the proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or d) the proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets; or e) the proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

3. In addition, for all towers and base stations wherever located, a substantial change occurs when: a) the proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the zoning administrator; or b) the proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012-the date that Congress passed Section 6409(a).

Z. **"Telecommunications Tower" or "Tower"** means a freestanding mast, pole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas. For the purposes of "Eligible Facilities Requests", the term "Tower" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(9), as may be amended, which currently defines that as any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

AA. **"Transmission Equipment"** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended, which currently defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup

power supply. The term includes equipment associated with wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

BB. **"Utility Pole"** means a pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the Connecticut Public Utilities Regulatory Authority.

CC. **"Wireless Services"** means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

DD. **"Wireless Telecommunications Facility"** means any facility constructed, installed, or operated for wireless service. "Wireless telecommunications facility" includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development.

"Wireless telecommunications facility" does not mean any of the following:

1. A ground-, building- or tower-mounted antenna facility operated by a federally licensed amateur radio operator as part of the Amateur Radio Service that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation, provided that the antenna does not exceed [30 feet above grade] and is subject to the allowable setbacks pursuant to the [City/Town] zoning regulations.
2. A single ground- or building-mounted receive-only radio or television antenna facility, for the sole use of the owner or tenant occupying a parcel on which the antenna is located, that is subject to the FCC Over-The-Air-Reception Devices rule, 47 C.F.R. Section § 1.4000, or any successor regulation, including, but not limited to, TV antennas used to receive television broadcast signals and wireless cable antennas. The antenna is not to exceed [30 feet above grade] and must be subject to the allowable setbacks pursuant to the [City/Town] zoning regulations.
3. A single ground-, pole- or building- mounted receive-only radio or television satellite dish antenna, not to exceed 48 inches in diameter, for the sole use of the owner or tenant occupying a parcel on which the antenna is located; satellite dish antenna height not to exceed the height of the roof ridge of the host structure; (All such applications shall be subject to regulations pursuant [City/Town] zoning regulations).
4. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the zoning administrator.
5. Wireless telecommunications facilities owned and operated by any government agency.
6. Wireless telecommunications facilities owned and operated by any emergency medical care provider.
7. Mobile services providing public information coverage of news events of a temporary nature.

8. Any wireless telecommunications facilities exempted from the [redacted] Municipal Code by federal law or state law.

EE. "Zoning administrator" means the [City/Town]'s Planning Director or his/her designee.

10.04.030 Applicability

A. This chapter applies to all wireless telecommunications facilities as follows:

1. All facilities for which applications were pending prior to the effective date of this chapter shall be subject to and comply with all provisions of this chapter; All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this chapter, the condition of approval shall control unless and until the permit is amended or revoked.

B. Notwithstanding any provision of the [City/Town] Municipal Code to the contrary, provisions governing the installation of a public utility structure or facility shall not apply to wireless telecommunications facilities. This chapter shall govern all applications for wireless telecommunications facilities.

10.04.040 Wireless Telecommunications Facility Permit Required

A. Permit required. No wireless telecommunications facility shall be located or modified within the [City/Town] on any property, including the public right-of-way, without compliance with this chapter.

Excluding Eligible Facilities Request applications, applications for wireless facilities shall require a use permit subject to the requirements of this chapter, to be acted upon by the Planning and Zoning Commission pursuant to its Zoning regulations, and other permits as set forth in the table below, in addition to any other permit required pursuant to the [City/Town] Municipal Code. Eligible Facilities Request applications shall be processed according to the requirements of Section 10.04.140.

Notwithstanding any other provision of this chapter, a conditional use permit shall be required for a facility when an exception is requested. Subject to any applicable limitations in federal or state law, nothing in this Chapter is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any application for a use permit as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the [redacted] Municipal Code or the Plan of Conservation and Development. See Table for Small Wireless Facility Installation Rules.

Description of Small Wireless Facility Installation Rules	Private Property			Public Right of Way****
	Residential Zones where restrictions exist	Other Protected Zones (Floodplain, Wetlands, Municipal Park or Protected Open Space)	All Other Zoning District	Non-Residential Zones
Roof or Bldg. Mounted SWF & not subject to CSC**	Not Permitted	Not Permitted	Conditional Use Permit	Not Applicable
Mounted on Light Pole & not subject to CSC or PURA**	Not Permitted	Not Permitted	Conditional Use Permit	Conditional Use Permit
Mounted on a Decorative Pole & Not subject to CSC**	Not Permitted	Not Permitted	Conditional Use Permit	Conditional Use Permit
Applications on electric distribution pole pursuant to PURA	Permitted	Not Permitted***	Permitted	Permitted
Applications on an electric transmission pole or other free-standing structure pursuant to CSC regulations*	Permitted	Not Permitted***	Permitted	Permitted
<p>Note 1:* According to the Connecticut Siting Council (CSC), “Tower means structure, whether free standing or attached to a building or another structure that has a height greater than its diameter and that is high relative to its surroundings, or that is used to support antennas for sending or receiving radio frequency signals or for sending or receiving signals to or from satellites, or any of these which is to be: (A) used principally to support one or more antennas for receiving or sending radio frequency signals, or for sending or receiving signals to or from satellites, or any of these; and (B) is owned or operated by the state, a public service company as defined in Section 16-1 of the Connecticut General Statutes, or a certified telecommunications provider, or used in a cellular system, as defined in Section 16-50i(a) of the Connecticut General Statutes.”</p>				
<p>Note 2:** Small wireless facilities that fall under municipal regulation include those installed on municipal street light poles, municipal decorative poles and on private buildings where the antenna is located on the side of the building, on the top of the building but not higher than its relative surroundings (i.e., other buildings and obstructions) or where the tower’s height is smaller than its diameter and not high relative to its surroundings.</p>				
<p>Note 3:*** Connecticut Siting Council has the final decision on telecommunication towers including those located in floodplains and wetlands but not for municipally owned parkland or protected open space. In the case of installations in floodplains or wetlands, the CT Siting Council must consider municipal policies, ordinances and regulations when making siting decisions for telecommunication towers. The Public Utilities Regulatory Authority also requires public utilities to obtain local permits before construction work is initiated.</p>				
<p>Note 4:**** For any public right-of-way on the boundary between zoning districts, the zone applicable to the location of a Wireless Telecommunication Facility shall be determined based</p>				

upon the closest district adjacent to the facility's location. The centerline of the public right-of-way will be used as the boundary between districts.

B. Non-exclusive grant; No warranty. No approval granted under this chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the [City/Town] for delivery of telecommunications services or any other purposes. Further, no approval shall be construed as any warranty of title.

10.04.050 Application for Permit

A. Application content. All applications for a permit required by this chapter must be made in writing on such form as the zoning administrator prescribes. The zoning administrator may waive the requirements for submittal of any information described herein only when determined that it is inapplicable based on project-specific factors, and documentation is provided to that effect. For permit applications other than Eligible Facilities Requests (which are addressed in Section 1004.140), the form shall include the following information, in addition to all other information determined necessary by the zoning administrator or the [City/Town] as part of an application for a conditional use permit, variance, and design review:

1. Full name and contact information for the facility owner, facility operator, agent (if any), and property owner, and related letter(s) of authorization.
2. The type of facility, including a full written description of the proposed facility, its purpose, technical specifications, and an assessment of any fire hazard a proposed installation presents to surrounding vegetation and structures. The applicant must provide proof for why expanded service is required for the proposed location(s) based on a) service deficiencies, b) capacity limitations of current towers, c) obsolete or malfunctioning equipment or d) other technical, legal or environmental constraints;
3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified licensed engineer and in accordance with requirements set by the zoning administrator. The site and engineering plan shall display the dimensions of each proposed facility, including its height from the ground level. Applicants must demonstrate that facilities have been designed to attain the minimum height required from a technological standpoint for the proposed site. The site and engineering plans shall show the proposed facility from each cardinal direction. The site and engineering plan shall also include technical information, including, but not limited to visual analysis, alternative sites analysis, landscape plans, lighting plans, and architectural and engineering plans. Technical information, including, but not limited to radio frequency and power density reports, visual analysis, alternative sites analysis, landscape plans, lighting plans, and architectural and engineering plans shall be prepared by an appropriate qualified professional acceptable to the zoning administrator;
4. The visual analysis shall include, but not necessarily be limited to, a photo montage or photo simulation and story poles erected at the proposed site (and surrounded by temporary construction fencing) or other similar technique. The visual analysis shall address visually

distinctive areas and scenic corridors as depicted and described in the Plan of Conservation and Development, views from public vantage points and private residences if determined appropriate by the [City/Town]. The visual analysis shall also depict cumulative conditions by including information pertaining to existing, approved and proposed telecommunications facilities that will or may eventually be constructed at the site by all carriers based upon permit applications which have been filed with or approved by the [City/Town]. The visual analysis may be expanded to include alternative locations within the proposed service area.

5. Photographs of facility equipment and an accurate visual impact analysis with photo simulations.

6. Proof of all applicable licenses or other approvals required by the FCC.

7. A technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility, operating by itself and in combination with other existing or approved facilities which can be measured at the proposed facility site, is in compliance with such FCC standards. Measurements for radio frequency emissions shall be based on all proposed, approved and existing facilities operating at maximum power densities at all relevant frequencies being used. Posting of a financial security may be required as a condition of approval to pay the cost for preparation of radio frequency reports evaluating the conformance of approved and operative facilities with applicable health standards adopted by the FCC. The carrier may post a single financial security in an amount not to exceed \$25,000 and indexed to the annual construction index hereafter, to satisfy radio frequency performance reports for buildout of the carrier's network facilities plan.

8. A technically sufficient written report by a qualified radio frequency engineer, certifying the location type, capacity, field strength or power density, and calculated geographic service of the proposed wireless communication facility.

9. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telecommunications facility or telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the Connecticut Public Utilities Regulatory Authority under (CGS) §§16-247(f) and (CGS) §§16-247(g).

10. A written description identifying the geographic service area for the subject installation, accompanied by a plan and maps showing anticipated future installations and modifications for the following two years.

11. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment, including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with Noise Control. The acoustic analysis must be prepared and certified by a qualified engineer and include an analysis of the manufacturer specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of a written report, the applicant may submit

evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.

12. If the applicant claims it requires an exception to the requirements of this chapter, all information and studies necessary for the [City/Town] to evaluate that claim should be provided.

13. An application and processing fee and a deposit for a consultant review as set forth in paragraph (B) of this section.

14. A copy of any land use easement or restriction (access, open space, public utility and the like) which encumbers the proposed facility site, as well as a copy of the proposed site's title report.

15. A detailed lighting plan including the location and type of all exterior lighting fixtures.

16. When batch applications are submitted for multiple small wireless facilities on the same street or within the same neighborhood, that is when one proposed location falls within 500 feet of another proposed location, the applicant shall provide a detailed analysis of the reasons for the proposed locations why they are needed to achieve mobile broadband service needs.

17. Public Notification. Proof that the applicant has provided public notification, at its own cost, via mail to all property owners and occupants within a radius of 300 feet from its proposed facilities. Information regarding the application shall be displayed on the outside of the envelope.

18. Public Participation: When a proposed batch application for small wireless facilities will impact more than five residences within 300 feet of the proposed batch locations, the applicant will convene a public meeting, organized by the zoning administrator to ensure the public can comment on the proposal.

19. A written report that explains the proposal's consistency with the [City/Town] **Telecommunications Plan** and the Connecticut Siting Council's latest State-wide Telecommunications Coverage Plan for Small Wireless Facilities.

20. Any other studies or information determined necessary by the zoning administrator.

B. Independent expert. The zoning administrator is authorized to retain on behalf of the [City/Town] an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution. Such fee resolution may include the contract price of a third-party consultant and the [City/Town] overhead costs for staff time expended on administration of the consultant contract. The independent consultant shall have maximum latitude as to how and when monitoring is done. The consultant may review the technical aspects of the application, including, but not limited to, the following matters:

The accuracy, adequacy, and completeness of submissions;

Compliance with applicable radio frequency emission standards and applicable electrical codes and fire codes and best practices for fire and electrical safety;

Whether any requested exception is justified;

An engineering assessment of the proposed installation to ensure that the proposed location is structurally adequate to support the proposed installation, and that it is adequately engineered to withstand the maximum wind loads that could be reasonably anticipated for the location. For installations on utility poles, the assessment would be based on conformance to PURA standards;

An assessment of any fire hazard a proposed installation presents to surrounding vegetation and structures;

An assessment of any impact on trees or flora;

A technical evaluation of alternative sites, facility designs or configurations, and coverage analysis; and

The validity of conclusions reached, or claims made by applicant.

B. Procedures for a Duly Filed Applications

1. *Voluntary Pre-Submittal Conference.* Before application submittal, applicants are encouraged (but not required) to schedule and attend a pre-application meeting with the zoning administrator. A pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); potential concealment issues (if applicable); coordination with other [City/Town] departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that [City/Town] staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable.

2. *Submittal Appointment.* All applications must be filed with the [City/Town] at a pre-scheduled appointment with the zoning administrator or his/her designee. Applicants may generally submit one (1) application per appointment but may schedule successive appointments for multiple applications whenever feasible. Any application received without an appointment, whether delivered in-person or through any other means, will not be considered duly filed, unless the applicant received a written exemption from the zoning administrator at a pre-submittal conference.

3. *Appointment Scheduling Procedures.* For any event in the submittal process that requires an appointment, applicants must submit a written request to the zoning administrator.

Applications Deemed Denied. To promote efficient review and timely decisions, the [City/Town] may deem an application denied without prejudice to the applicant to re-file as a new application when the applicant fails to tender a substantive response within ninety (90) calendar days after the [City/Town] deems the application incomplete in a written notice to the applicant.

10.04.060 Location and Configuration Preferences

A. Purpose. The purpose of this section is to provide guidelines to applicants and the reviewing authority regarding the preferred locations and configurations for wireless Telecommunication Facilities in the [City/Town], provided that nothing in this section shall be construed to permit a wireless Telecommunication Facility in any location or configuration that is otherwise prohibited by this chapter.

B. Review of Location and Configuration. The reviewing authority shall consider the extent to which a proposed wireless Telecommunication Facility complies with these preferences and whether there are feasible alternative locations or configurations to the proposed facility that are more preferred under this section.

C. Order of Preference - Configurations. The order of preference for the configuration for wireless Telecommunication Facilities from most preferred to least preferred is:

1. Collocation with existing facilities outside the public rights-of-way;
2. Roof-mounted;
3. Building-mounted;
4. Mounted on an existing pole or utility pole;
5. Mounted on a new pole or utility pole that will replace an existing pole or utility pole; and
6. Mounted on a new telecommunication tower or pole.

D. Order of Preference - Location. The order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is: (insert priority zones)

1. In the Commercial zoning districts;
2. In the Downtown zoning district;
3. In the Industrial zoning district;
5. In the Professional Office zoning district; and
6. In the public right-of-way with the closest adjacent district being a commercial district.

E. Applications for new wireless communications facilities shall only be for placement a minimum of 50 feet from all residences and a minimum 300 feet from child day care centers, schools, playgrounds, parks, ballfields, and medical facilities unless the applications include information sufficient to demonstrate:

- (1) The location and type of preferred sites which exist within the proposed or technically feasible coverage area is mapped;
- (2) The preferred location site was not available as shown by the good faith efforts and measures taken by the carrier to secure the preferred location sites;

- (3) Specific reasons why such efforts and measures were unsuccessful;
- (4) Specific reasons why the location of the proposed facility site is essential to meet the service demands of the carrier; and
- (5) Thorough reports required pursuant to § 10.04.050 demonstrating compliance with current federal health standards.

F. Wireless communications facilities shall be attached or sited adjacent to existing structures unless the carrier demonstrates to the satisfaction of the [City/Town] that no other technically feasible site exists or that construction of a freestanding facility on or at a distant location from an existing structure will mitigate adverse effects related to land use compatibility, visual resources, public safety and other environmental factors. Appropriate types of existing structures may include, but not be limited to: buildings, water tanks and some telephone/utility poles.

G. Monopoles for wireless communications facilities should not be located in residential or open space areas unless technical evidence demonstrates to the satisfaction of the [City/Town] that no other alternative facility site or type of antenna support structure is feasible and/or if the use of a Monopole for the proposed facility by itself or in combination with other existing, approved and proposed facilities will avoid or mitigate adverse effects related to land use compatibility, visual resources and public safety.

H. Accessory equipment. In order of preference from most preferred to least preferred, accessory equipment for wireless telecommunication facilities and wireless telecommunications collocation facilities (excluding antennas and electric meters) shall be located underground where possible, within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the roadway, unless the reviewing authority finds that another location is preferable under the circumstances of the application. The applicant shall bear the burden of demonstrating that accessory equipment cannot be placed in the most preferred location.

I. Collocation and Shared-Location of wireless telecommunications facilities should be required when it is feasible and mitigates adverse effects related to land use compatibility, visual resources, public safety and other environmental factors. Collocation and Shared-Location sites should not be required when it creates or significantly increases such adverse effects and/or technical evidence demonstrates to the satisfaction of the [City/Town] that it is not feasible due to service impairment or operational failures. To ensure adequate and complete consideration of Collocation and Shared-Location siting of proposed wireless communications facilities, the carrier may be required to submit a graphic and written analysis which identifies all technically feasible sites within the coverage area that would accommodate the proposed service. The analysis shall include:

- 1. Enough information to provide adequate consideration of technically feasible alternative sites and/or facility designs that would avoid or minimize adverse effects related to land use compatibility, visual resources, public safety and other environmental factors;

2. In writing, the specific factors for selection of the proposed facility site over alternative sites;
3. Facilities which are not proposed to be sited on a Collocation or Shared-Location site shall provide information substantiating the unfeasibility of the sites; and
4. The [City/Town] may require independent peer review of the analysis prior to making a decision on the permit applications. The analysis should, to the extent practical, be incorporated with the coverage area map.

J. Non-Exclusive Use. The [City/Town] should, to the extent practicable and legal, discourage leases which convey exclusive (i.e., single user) rights for new wireless communications facilities to the extent that the leases may preclude development of a suitable Collocation facilities site.

K. Shared Use. The design of Collocation sites should promote shared use among different carriers. To the extent feasible, antenna support and equipment structures should be designed to consolidate future planned facilities to eliminate or minimize the visual clutter resulting from multiple telecommunications structures. Where appropriate, as demonstrated by the carrier and determined by the [City/Town], multiple antenna support structures may be approved (Shared-Location) rather than a single larger/higher structure. Facilities should make available unutilized space for Collocation of other antennas and equipment, including space for competing service carriers.

10.04.070 Design and Development Standards for All Facilities

A. Basic requirements. The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section.

B. Build-out Period. Approvals will automatically expire six (6) months from the issuance date, unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes, without limitation, permits required pursuant to Building Code, and any other permits or approvals required by any federal, state, or local public agencies with jurisdiction over the subject property, the wireless facility, or its use and constructs the approved facility. The zoning administrator may grant one (1) written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this subparagraph. No further extensions may be granted but the permittee may resubmit a complete application, including all application fees for the same or substantially similar project.

C. General guidelines.

1. The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as

visually inconspicuous as possible, to prevent the facility from dominating and disrupting the surrounding area, and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.

2. For open space or hillside locations that would be generally viewed from a distance, innovative design solutions may be appropriate where the screening potential of a site is low (i.e., disguise facility as a landscape element, public art and the like).

3. Facilities should not be located on historically or architecturally significant structures unless the Secretary of Interior's guidelines determine that facilities can be visually and architecturally integrated with the structure; historical landscapes shall be avoided.

4. Facilities should be sited to avoid adverse impacts to existing views from surrounding residences.

D. Traffic safety; Roads. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety. Whenever feasible, existing roads and parking areas should be used to access, build and service new telecommunications facilities. Any new access roads or parking areas constructed shall be shared with subsequent telecommunications facilities and/or other permitted uses to the extent feasible. New access roads constructed in open space areas shall have the minimum width and surfacing necessary to meet fire safety and access requirements and shall be graded and drained consistent with [City/Town] stormwater pollution prevention requirements. The size of new parking areas shall be limited to the minimum necessary to accommodate vehicles associated with periodic maintenance of the facility.

E. Antennas. The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without materially compromising their function. Whip antennas need not be screened.

F. Landscaping; Vegetation.

1. Where appropriate, facilities shall be installed so as to maintain, protect, and enhance existing landscaping on the site, including trees, foliage, and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the [City/Town] to provide screening or to block the line of sight between facilities and adjacent uses.

2. Applications for Wireless Facilities shall be accompanied by a landscape plan that shows existing vegetation, indicates any vegetation proposed for removal or trimming, and identifies proposed planting by type, size and location. The emphasis of the landscape plan should be to visually screen the proposed facility and stabilize soils on sloping sites. Introduced vegetation shall be native, drought tolerant species compatible with the predominant natural setting of the project area.

3. Existing trees and other screening vegetation in the vicinity of the proposed facility and associated access ways shall be protected from damage both during and after construction.

Submission of a tree protection plan may be required to ensure compliance with this requirement.

4. All vegetation disturbed during project construction shall be replanted with compatible vegetation and soils disturbed by development shall be reseeded to control erosion.

5. No vegetation shall be removed subsequent to project completion, except to comply with local and state fire safety regulations, to prevent the spread of disease as required by the state's Department of Agriculture, or to prevent safety hazards to people and property.

6. The carrier shall enter into a landscape performance and maintenance agreement with the [City/Town] to ensure the installation and establishment of required landscaping. This agreement shall be secured by financial securities in an amount equal to 150 percent of estimates to cover the cost of materials and labor for required improvements. The duration of the landscape maintenance agreement shall be for a minimum period of no less than one year and may be extended for an additional period of up to two additional years upon renewal of the permit applications.

7. Antennas and associated structures and equipment shall be painted to blend with the structures, vegetation, sky or landscape against which they will be primarily viewed.

8. Wireless telecommunications facilities are not permitted on ridgelines

G. Signage. Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, warning, or other signage required by law or permitted by the [City/Town].

H. Lighting. No wireless telecommunications facility may be illuminated, unless either specifically required by the Federal Aviation Administration or other government agency or in association with the illumination of an athletic field on [City/Town] or school property. Lightning arresters and beacon lights are not permitted, unless required by the Federal Aviation Administration, FCC or other applicable regulations for health and safety. Legally-required lightning arresters and beacons shall be included when calculating the height of facilities. If lighting is permitted, the following requirements apply to such lighting:

1. Mechanically-operated, low wattage, hooded and downward directed exterior lighting shall be permitted for safety purposes only and shall be kept off, except when maintenance or safety personnel are present at night.

2. Tower lighting required under FAA regulations should, to the greatest extent feasible, be shielded or directed to minimize light and glare impacts visible from publicly accessible areas.

3. Nighttime lighting of warning signs required near publicly accessible facilities must consist of low-wattage fixtures, and must be directed downward and hooded to mitigate impacts visible from publicly accessible areas.

I. Noise.

1. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.
2. Normal testing and maintenance activities shall not take place weekends, holidays or between the hours of 5:00 p.m. and 7:00 a.m., excluding emergency repairs. Normal testing and maintenance activities, which do not involve the use or operation of telecommunications and maintenance equipment that is audible from residences and other nearby sensitive receptors, may occur at all other times.
3. Backup generators shall only be operated during periods of power outages or emergency occurrences, and shall not be tested on weekends, holidays, or between the hours of 5:00 p.m. and 7:00 a.m.
4. At no time shall equipment noise from any facility exceed an exterior noise level of 50 dBA at the facility's property line if the facility is located in a business or commercial zone that permits those uses; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed an exterior noise level of 40 dBA at the property line of any such residential property. For any facility located within a residential zone, such equipment noise shall at no time be audible at the property line of any residentially-improved or residential zoned property.
5. Any equipment, including, but not limited to, air conditioning units, that may emit noise that would be audible from either beyond three feet from the facility in the case of a facility located in the right-of-way, or the facility's property line in the case of other facilities, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the [REDACTED] Municipal Code.

J. Security. Each wireless telecommunications facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The reviewing authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access.

K. Radio Frequency Radiation and Field Strength. Each wireless telecommunications facility shall be designed to address the following:

1. Demonstrating that the *wireless communication facility* complies with federal standards for radio frequency radiation in accordance with the Telecommunication Act of 1996 and subsequent amendments and any other requirements imposed by state or federal regulatory agencies.
2. Identifying the location type, capacity, field strength or power density, and calculated geographic service of the *wireless communication facility*.

L. Modification. At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including but not limited to undergrounding the equipment and replacing larger, more visually-intrusive facilities with smaller, less visually-intrusive facilities.

10.04.080 Additional Design and Development Standards for Facilities Outside the Public Right-of-Way

A. Basic Requirements. Facilities located outside the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

B. No parking interference. In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required.

C. Roof-mounted facilities. Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure. Roof-mounted antennas and associated equipment shall be located as far back from the edge of the roof as possible to minimize visibility from street level locations. Where appropriate, construction of a roof-top parapet wall to hide the facility may be required. To avoid or mitigate the appearance of visual clutter on rooftops, proposed facilities should, to the extent feasible, be located adjacent to existing rooftop antennas or equipment, incorporated into rooftop antenna or equipment enclosures, or otherwise screened from view. In addition, existing rooftop antennas and equipment should be consolidated where practical and shall be removed if abandoned.

D. Antenna Design. Wall-mounted antennas shall be integrated architecturally with the style and character of the structure or otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. To the extent feasible, wall-mounted antennas should not be located on the front, or most prominent facade of a structure, and should be located above the pedestrian line-of-sight.

E. Facilities mounted to a telecommunications tower.

1. Facilities mounted to a telecommunications tower shall be located in close proximity to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the [City/Town].

2. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The

applicant shall provide documentation satisfactory to the zoning administrator establishing compliance with this paragraph. **In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.**

3. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be laid within the interior of the telecommunications tower and camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.
4. Pole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
5. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
6. Poles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
7. If a faux tree is proposed for the pole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.

F. Accessory equipment. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged and located so as to minimize their visibility to the greatest extent possible, utilizing the following methods for the type of installation:

1. Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.
2. Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels), or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall

be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

3. Whenever possible, base stations, equipment cabinets, back-up generators and other equipment associated with building-mounted antennas should be installed within the existing building envelope or underground. If this is not feasible, the equipment shall be painted, screened, fenced, landscaped or otherwise treated architecturally to minimize its appearance from off-site locations and to visually blend with the surrounding natural and built environments. Equipment buildings should be designed in an architectural style and constructed of exterior building materials that are consistent with surrounding development and/or land use setting.

10.04.090 Additional Design and Development Standards for Facilities in the Public Right-of-Way

A Basic Requirements. Facilities located in the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

B. Right-of-way authority. An encroachment permit must be obtained for any work in the public right of way. Only applicants authorized to enter the public right-of-way pursuant to state or federal law or a franchise or other agreement with the [City/Town] shall be eligible for a permit to install or modify a wireless telecommunications facility in the public right-of-way.

C. Antennas.

1. *Utility poles.* The maximum height of any antenna mounted to an existing utility pole shall not exceed two (2) feet above the height of the existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than eighteen (18) feet above any drivable road surface. Notwithstanding the foregoing, all installations on utility poles shall fully comply with the Connecticut Public Utilities Regulatory Authority general orders, as revised.

2. *Street light poles.* The maximum height of any antenna mounted to a street light pole shall not exceed seven (7) feet above the existing height of the street light pole in a location with its closest adjacent district being a commercial zoning district, and shall not exceed three (3) feet above the existing height of the street light pole in any other zoning district. Any portion of the antenna or equipment mounted on a streetlight pole shall be no less than eighteen (18) feet above any drivable road surface.

D. Poles.

1. Only pole-mounted antennas shall be permitted in the public right-of-way. All other types of telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole unless an exception is granted pursuant to Section 10.04.130.

2. Pole height and width limitations:

a) All replacement poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC and Connecticut PURA requirements. Replacement poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility. Replacement poles must match existing poles, as determined by the zoning administrator.

b) Notwithstanding (a) above, no facility shall be located on a pole that is less than twenty (20) feet in height, and no facility shall exceed **thirty-five (35)** feet in height as measured from the ground, including, but not limited to, the pole or replacement pole and any antenna that protrudes above the pole or replacement pole.

3. **Pole-mounted equipment shall not exceed six (6) cubic feet in dimension per pole.**

4. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this chapter. Such replacement pole shall not exceed the height of the pole it is replacing by more than **(7) feet**, and no facility shall exceed **thirty-five (35)** feet in height as measured from where the base of the pole meets the ground.

5. Mounting any and all hardware or antennas on decorative light poles is prohibited except as a replacement pole that matches the existing decorative light poles in the vicinity.

6. If an exception is granted for placement of new poles in the public right-of-way, new poles shall be designed to resemble existing poles in the public right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than one **hundred forty (140)** feet to an existing pole.

7. All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole. For streetlights, any replacement pole must allow for an integrated design with wires inside the pole.

E. Space occupied. Facilities shall be designed to occupy the least amount of space in the public right-of-way that is technically feasible.

F. Location.

1. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.

2. A facility shall not be located within any portion of the public right-of-way that would interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.

3. Each pole mounted wireless telecommunications facility must be separated by at least one thousand five hundred (1,500) feet unless field strength or power density analysis determines that a lesser or greater distance is required to meet the telecommunication service needs of the public service company.

4. All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.

5. For all applications in undergrounding districts, all undergrounding district regulations apply.

G. Americans with Disabilities Act Compliance. All facilities shall be built in compliance with the Americans with Disabilities Act (ADA).

H. Accessory equipment. **The wireless facility shall be powered using unmetered service, whenever available.** If not available, the electric meter shall be pole-mounted to the extent feasible, and all accessory equipment shall be located underground within three (3) feet of the pole and ground flush mounted to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and **shall not exceed a height of five (5) feet and a total footprint of fifteen (15) square feet, and shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening. Required electrical meter cabinets shall be adequately screened and camouflaged.**

I. Documentation. The applicant shall provide documentation satisfactory to the zoning administrator establishing compliance with this section.

10.04.100 Conditions of Approval for All Facilities

A. In addition to compliance with the requirements of this chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority throughout the duration of the permit:

1. Before the permittee submits any application for a permit or other permits required by the **[City/Town]** Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this chapter, all conditions associated with the wireless telecommunications facility permit and engineering and electrical plans, schematics and specifications and the approved plans and any photo simulations into the project plans (the "Approved Plans"). The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the Approved Plans. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.

2. **Where feasible, as new technology becomes available, the permittee shall: a) place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground; and b) replace larger, more visually-intrusive facilities with smaller, less visually-**

intrusive facilities, after receiving all necessary permits and approvals required pursuant to the [City/Town] Municipal Code.

3. The permittee shall submit and maintain current at all times basic contact and site information, in a form as may be required by the [City/Town]. The permittee shall notify the [City/Town] of any changes to the information submitted within seven (7) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following: a) Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility; b) The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification; and c) The name, address, and telephone number of the property owner if different than the permittee.

4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the [City/Town] reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting, and public signage.

5. At all times, all required notices and signs shall be posted on the site as required by the FCC, Connecticut Siting Council or Connecticut Public Utilities Authority, as applicable, and as approved by the [City/Town]. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.

6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC, antenna height standards adopted by the Federal Aviation Administration, and all electrical code requirements for the equipment, wiring the equipment and providing power to the equipment. At the sole expense of the permittee and using a consultant approved by the [City/Town], testing shall be performed demonstrating compliance with current regulatory and operational standards, and to ensure the equipment is operating within proper specifications and does not pose an undue fire risk or electrical risk. Tests shall occur upon commencement of operations and annually thereafter, and results provided in a written report to the [City/Town].

7. If, upon inspection, the [City/Town] Building Official determines there is good cause to believe that the facility (including, without limitation, its Accessory Equipment, Antenna and/or Base Station) may present a fire risk or electrical hazard, the Building Official may order the facility to be shut down and powered off until such time as the facility is repaired and restored to its correct operating specifications, at the sole expense of the permittee.

8. Permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the [City/Town] Municipal Code. The bond coverage shall include, but not be limited to, removal of

the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the zoning administrator in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.

9. Permittee shall defend, indemnify, protect, and hold harmless the [City/Town], its elected and appointed (insert governing board name), boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the [City/Town] and its elected and appointed members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the [City/Town], Planning and Zoning Commission or (insert governing board name) concerning the permit, the project, and any and all claims, actions, or proceedings arising from, or related to, the installation, operation, or inspection of any facility. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees, and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The [City/Town] shall promptly notify the permittee of any claim, action, or proceeding that this indemnification obligation may cover. Nothing contained herein shall prohibit [City/Town] from participating in a defense of any claim, action or proceeding. The [City/Town] shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense. The [City/Town] shall retain the right to participate in any claim, action or proceeding if the [City/Town] bears its own attorney's fees and costs, and the [City/Town] defends the action in good faith.

10. Permittee shall obtain and maintain insurance for the coverages and in the amounts reasonably specified by the zoning administrator.

11. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.

12. The proposed facility complies with all applicable provisions of this chapter, including the technical review by the [City/Town] Independent Expert set forth in Section 10.04.050(8).

13. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

14. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.

15. A condition setting forth the permit expiration date in accordance with section 10.04.200 shall be included in the conditions of approval.

16. *Record Retention.* The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, including, without limitation, any approval, the approved plans and photo simulations incorporated into the approval, all conditions associated with the approval, and any other ministerial permits or approvals issued in connection with the approval. In the event that the permittee does not

maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

17. *Compliance Obligations.* An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the [City/Town] Municipal Code, any permit, any permit condition, or any applicable law or regulation by reason of any failure by the [City/Town] to timely notice, prompt or enforce compliance by the applicant or permittee.

10.04.110 Additional Conditions of Approval for Facilities in the Public Right-of-Way

A. In addition to compliance with the requirements of this chapter, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth in section 10.04.100, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority throughout the duration of the permit:

1. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the (insert Chief Elected Official) or his/her designee for the purpose of: (a) protecting the public health, safety, and welfare, (b) preventing interference with pedestrian and vehicular traffic, and (c) preventing damage to the public right-of-way or any property adjacent to it. The [City/Town] may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the [City/Town] by the permittee.
2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement or property owned by the [City/Town] shall be moved to accommodate a wireless telecommunications facility, unless the [City/Town] determines that such movement will not adversely affect the [City/Town] or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the [City/Town]'s structure, improvement, or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide documentation establishing to the [City/Town] satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property within the public right-of-way to be affected by applicant's facilities.
3. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
4. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to [City/Town] streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, utility lines and systems, underground utility lines and systems, or sewer systems and sewer lines that result from any activities performed in connection

with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the zoning administrator, the zoning administrator shall cause such repair to be completed at permittee's sole cost and expense.

5. Prior to issuance of a building permit, the applicant shall obtain the zoning administrator's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless Telecommunication Facility will be located within the canopy of a street tree, or a protected tree on private property, or within a ten (10)-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than ten (10) feet may be required by the zoning administrator.

6. If a meter cabinet has been approved for the facility and subsequently any utility company offers electrical service that does not require the use of a meter cabinet, the permittee shall seek approval of the utility company to switch to the unmetered service and, at its sole cost and expense, remove the meter cabinet and any related foundation within thirty (30) days of such service being obtained and reasonably restore the area to its prior condition.

7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to [City/Town], if and when made necessary by: a) Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities, including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by [City/Town] or any other public agency; b) Any abandonment of any street, sidewalk, or other public facility; c) Any change of grade, alignment or width of any street, sidewalk, or other public facility; or d) A determination by the zoning administrator that the wireless telecommunications facility has become incompatible with public health, safety, or welfare or the public's use of the public right-of-way.

8. Any modification, removal, or relocation of the facility shall be completed within ninety (90) days of written notification by [City/Town], unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review, and approval of a permit amendment pursuant to the [City/Town] Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the [City/Town] Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the [City/Town] may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the [City/Town] Municipal Code, the [City/Town] may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee, provided permittee is notified within a reasonable period thereafter.

9. The applicant has the right to enter the public right-of-way pursuant to state or federal law, or by virtue of a franchise or other agreement with the [City/Town] permitting them to use the public right-of-way.

10. The facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the [City/Town] plans for modification or use of such location and infrastructure.

10.04.120 Findings

A. Where a wireless telecommunication facility requires a conditional use permit under this chapter, the reviewing authority shall not approve any application unless, in addition to the findings generally applicable to all conditional use permits, all of the following additional findings are made:

1. The proposed facility complies with all applicable provisions of this chapter.
2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.

B. In addition to the findings in paragraph (A) above, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the reviewing authority:

1. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the [City/Town] permitting them to use the public right-of-way.
2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the [City/Town] plans for modification or use of such location and infrastructure.

10.04.130 Exceptions

A. Exceptions pertaining to any provision of this chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the reviewing authority if the reviewing authority makes the finding that a refusal to grant the exception would violate federal law, state law, or both. Such exceptions may be granted if the reviewing authority finds, without limitation, that:

1. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both; and
2. The proposed wireless facility qualifies as a "personal wireless service facility" as defined in 10.04.020(N), as may be amended or superseded; and
3. The applicant has provided the reviewing authority with a reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility; and
4. The applicant has provided the reviewing authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this Chapter, the [City/Town] Municipal Code, the Plan of Conservation and Development and/or any specific plan; and
5. The applicant has provided the reviewing authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the [City/Town], public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility; and
6. The applicant has demonstrated to the reviewing authority that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area; and
7. The applicant has demonstrated that its proposed wireless facility will be in compliance with all applicable health, safety, and environmental regulations, which include without limitation the Americans with Disabilities Act, the Endangered Species Act, and all FCC rules and regulations for human exposure to RF emissions.

B. An applicant may only request an exception at the time of applying for a wireless telecommunications facility permit. The request must include both the specific provision(s) of this chapter from which the exception is sought and the basis of the request. Any request for an exception after the [City/Town] has deemed an application complete shall be treated as a new application.

C. The applicant shall have the burden of proving that the exception should be granted.

10.04.140 Eligible Facilities Requests

A. Applicability. This Section applies to all Eligible Facilities Requests pursuant to Section 6409(a).

B. Approval Required. Applicants for Eligible Facilities Requests must submit a written request for a 6409(a) approval consistent with this section, which will be reviewed by the Zoning administrator who will determine whether the request should be approved, conditionally approved, or denied without prejudice pursuant to the standards and procedures contained in this section.

C. Other Regulatory Approvals. Any Eligible Facilities Request approved under this chapter shall be subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the [City/Town] and state or federal agencies.

D. Eligible Facilities Request Application Requirement. An application must include the following information:

1. Full name and contact information for the facility owner, facility operator, agent (if any), and property owner, and related letter(s) of authorization. If the applicant does not own the subject property, the application must include a written authorization signed by the property owner that empowers the applicant to file the application and perform all wireless facility construction, installation, operation, and maintenance to the extent described in the application.
2. The type of facility, including a full, written description of the proposed facility, its purpose, and technical specifications.
3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified, licensed engineer and in accordance with requirements set by the zoning administrator. The site and engineering plan shall display the dimensions of each proposed facility, including, but not limited to, its height from the ground level. The site and engineering plans shall show the proposed facility from each cardinal direction.
4. Photographs of facility equipment and an accurate visual impact analysis with photo simulations.
5. A written statement that explains why the applicant believes Section 6409(a) and the related FCC regulations require approval. A complete written narrative analysis will state the applicable standard and all the facts that allow the [City/Town] to conclude the standard has been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include (a) whether and why the support structure qualifies as an existing tower or existing base station; and (b) whether and why the proposed Eligible Facilities Request does not cause a substantial change in height, width, excavation, equipment cabinets, concealment, or permit compliance. The analysis provided under (b) shall include a copy of all prior conditions of approval and an explanation as to why the prior conditions of approval are met by the proposed wireless facility application.
6. A technically sufficient written report by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with such FCC standards.

7. Public Notification. Proof that the applicant has provided public notification, at its own cost, via mail to all property owners and occupants within a radius of 300 feet from its proposed facilities. Information regarding the application shall be displayed on the outside of the envelope.

E. Administrative Review; Decision Notices. The zoning administrator shall administratively review an application for an Eligible Facilities Request and act on such an application without prior notice or a public hearing. Within five (5) working days after the zoning administrator approves, conditionally approves, or denies an Eligible Facilities Request application, the zoning administrator shall send a written notice to the applicant.

In the event that the zoning administrator determines that an application submitted for approval pursuant to Section 6409(a) does not qualify for approval, the zoning administrator will send written notice to the applicant that includes the reasons to support the review authority's decision and states that the application will be denied without prejudice.

F. Required Findings for 6409(a) Approval. The zoning administrator may approve or conditionally approve an application submitted for Section 6409(a) approval when the zoning administrator finds that the proposed project:

1. Qualifies as an Eligible Facilities Request; and
2. Complies with (or is conditioned to comply with) all generally applicable health and safety rules.

G. Criteria for Denial Without Prejudice. The zoning administrator may deny without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds that the proposed project does not meet the criteria under subsection (D) above.

H. Conditional 6409(a) Approvals. Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the [City/Town] authority to conditionally approve an application for a section 6409(a) approval to protect and promote the public health, safety, and welfare.

I. Standard Conditions of Approval. In addition to all other conditions adopted by the zoning administrator, all Section 6409(a) approvals, whether approved by the zoning administrator or deemed approved by the operation of law, shall be automatically subject to the following conditions in this section; provided, however, that the zoning administrator shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:

1. *Approved Plans.* Before the permittee submits any application for a building permit or other permits required by the [City/Town] Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations into the project plans (the "Approved Plans"). The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the Approved

Plans. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.

2. *Permit Term.* The [City/Town] grant or grant by operation of law of a Section 6409(a) approval will not extend the permit term, if any, for any conditional use permit, or other underlying prior regulatory authorization. Accordingly, the term for a Section 6409(a) approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station.

3. *Accelerated Permit Terms Due to Invalidation.* In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously-approved Section 6409(a) approvals or the zoning administrator grants an extension upon written request from the permittee that shows good cause for the extension, which includes, without limitation, extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the zoning administrator may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) approval when it has submitted an application for a conditional use permit for those improvements before the one-year period ends.

4. *No Waiver of Standing.* The [City/Town] grant or grant by operation of law of a Section 6409(a) approval does not waive, and shall not be construed to waive, any standing by or right of the [City/Town] to challenge Section 6409(a), any FCC rules that interpret Section 6409(a), or any Section 6409(a) approval.

5. *Build-out Period.* The Section 6409(a) approval will automatically expire one (1) year from the issuance date, unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes, without limitation, any permits or approvals required by the any federal, state, or local public agencies with jurisdiction over the subject property, the wireless facility, or its use. The zoning administrator may grant one (1) written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this subparagraph. Any further extensions may be granted by the Planning and Zoning Commission, in its sole discretion, pursuant to the same procedures to request an extension from the zoning administrator.

6. *Maintenance Obligations; Vandalism.* The permittee shall keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean, and safe condition in accordance with the Approved Plans and all conditions in the Section 6409(a) approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at its sole cost, shall remove and remediate any graffiti or other vandalism at the site within two (2) days after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

7. *Compliance with Laws.* The permittee shall maintain compliance at all times with all federal, state, and local laws applicable to the permittee, the subject property, the wireless facility, or any use or activities in connection with the use authorized in this section 6409(a) approval, including, but not limited to, compliance with the Americans with Disability Act. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve, or otherwise lessen the permittee's obligations to maintain compliance with all applicable laws.

8. *Adverse Impacts on Other Properties.* The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's construction, installation, operation, modification, maintenance, repair, removal, or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal, or other work that involves heavy equipment or machines on any day and at any time prohibited under the [City/Town] Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the [City/Town]. The zoning administrator may issue a stop work order for any work that violates this condition.

9. *Noise Complaints.* The permittee shall conduct all activities on the site in compliance with the noise standards in the [City/Town] Municipal Code. In the event that any person files a noise complaint and the [City/Town] verifies that such complaint is valid, the permittee must remedy the violation within ten (10) days after notice from the [City/Town], which may include a demonstration that the permittee has amended its operational guidelines in situations where the violation arises from the permittee's personnel rather than the permittee's equipment.

10. *Inspections; Emergencies.* The permittee expressly acknowledges and agrees that the [City/Town] or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the [City/Town] or its designee may, but is not obligated to, enter onto the site area without prior notice to support, repair, disable, or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee will be permitted to supervise the [City/Town] or its designee while such inspection or emergency access occurs.

11. *Contact Information.* The permittee shall furnish the [City/Town] with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address, and email address. The permittee shall keep such contact information up-to-date at all times.

12. *Performance Bond.* Before the [City/Town] issues any construction permit in connection with the wireless facility, if, in the [City/Town] sole discretion, the existing performance bond for the facility is inadequate or the facility is not associated with any existing performance bond, the permittee shall post a performance bond from a surety and in a form acceptable to the [insert

chief elected official] in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, the **[insert chief elected official]** shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.

13. Conditions of approval shall specify a maximum number of trips on a case-by-case basis based upon the carrier's maintenance and testing schedule.

10.04.160 Business License

A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise required under the **[City/Town]** Municipal Code.

10.04.170 Emergency Deployment

In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the zoning administrator deems to constitute an emergency, the zoning administrator may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell on wheels or "COW"), which is subject to such reasonable conditions that the zoning administrator deems necessary.

10.04.180 Operation and Maintenance Standards

A. All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards. All necessary repairs and restoration shall be completed by the permittee, owner, or operator within 48 hours:

1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
2. After permittee, owner, operator, or any designated maintenance agent receives notification from a resident or the zoning administrator.

B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;

5. Missing, discolored, or damaged artificial foliage or other camouflage;
6. Graffiti, bills, stickers, advertisements, litter and debris;
7. Broken and misshapen structural parts; and
8. Any damage from any cause.

C. All trees, foliage, and other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner, and operator of the facility shall be responsible for replacing any damaged, dead, or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the zoning administrator.

D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.

E. Each facility, operating alone and in conjunction with other telecommunications facilities, shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards. **Within one month post-construction and annually thereafter, permittee must provide a radio frequency report as a condition of project approval to verify that actual levels of radio frequency emitted by the approved facilities, operating alone and in combination with other approved facilities, substantially conform to the pre-approved radio frequency report and do not exceed current standards for permissible human exposure to radio frequency as adopted by the FCC.** In the event of an increase over accepted levels is detected, the permittee shall be responsible for immediately making the necessary adjustments to comply with FCC standards.

F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this chapter and shall be operated and maintained in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 7:00 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are approved by the zoning administrator. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.

G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.

H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this section and the conditions of approval.

I. Annual Certification. Each year on July 1, the permittee shall submit an affidavit which shall list, by location, all facilities it owns within the [City/Town] by location, and shall certify (1) each such installation remains in use; (2) that such in use facility remains covered by insurance; and (3) each such installation which is no longer in use, and pay applicable recertification fees established by the [City/Town]. Any facility which is no longer in use shall be removed by permittee within 60 days of delivery of the affidavit, or be subject to a fine of \$100 per day until

removal. Where such annual re-certification has not timely submitted, or equipment no longer in use has not been removed within the required 60-day period, no further application for that small cell wireless installation will be accepted by the [City/Town] until such time as the annual re-certification has been submitted and fee and fines paid.

10.04.190 No Dangerous Conditions or Obstructions Allowed

No person shall install, use, or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use, or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes, or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes; permitted sidewalk dining, permitted street furniture, or other objects permitted at or near said location.

1004.200 Permit Expiration

A. A permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless the Planning and Zoning Commission authorizes a different period, or pursuant to another provision of the [City/Town] Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.

B. A permittee may apply for renewals of its permit in increments of no more than ten (10) years and no sooner than twelve (12) months prior to expiration of the permit.

C. An application for renewal shall be evaluated based on federal, state, and local law as it exists at the time applicant seeks renewal. The following may also be required for an application to renew a wireless permit:

1. At the zoning administrator's discretion, additional studies and information may be required of the applicant.

2. If the zoning administrator determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the [City/Town] Municipal Code that are then in effect, the zoning administrator shall refer the renewal request to the Planning and Zoning Commission.

D. The request for a renewal shall be decided by the Planning and Zoning Commission if the permit expired before the application is made for a renewal or if the zoning administrator refers the matter to the Planning and Zoning commission. After notice and a public hearing, the Planning and Zoning Commission may approve, conditionally approve, or deny the renewal. A permit application may not be renewed if the facility is not upgraded to mitigate its impacts, including land use compatibility, visual resources, public safety or other environmental factors, to the greatest extent permitted by technology which exists at the time of renewal and is consistent with the provisions of adequate service at affordable rates.

1004.210 Cessation of Use or Abandonment

A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

B. The operator of a facility shall notify the [City/Town] in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten (10) days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the zoning administrator of any discontinuation of operations of thirty (30) days or more.

C. Failure to inform the zoning administrator of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Prosecution;
2. Revocation or modification of the permit;
3. Calling of any bond or other assurance required by this chapter or conditions of approval of the permit;
4. Removal of the facilities by the [City/Town] in accordance with the procedures established under the [City/Town] Municipal Code for abatement of a public nuisance at the owner's expense; and
5. Any other remedies permitted under [City/Town] Municipal Code or applicable law.

10.04.220 Removal and Restoration, Permit Expiration, Revocation or Abandonment

A Permittee's removal obligation. Upon the expiration date of the permit, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition, except for retaining the landscaping improvements and any other improvements at the sole discretion of the zoning administrator. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the [City/Town]. The facility shall be removed from the property within thirty (30) days of the permit's expiration, at no cost or expense to the [City/Town]. If the facility is located on private property, the private property owner shall also be jointly and severally responsible for the expense of timely removal and restoration.

B. Failure to remove. Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within thirty (30) days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the [City/Town] Municipal Code, and be grounds for:

1. Prosecution;

2. Calling of any bond or other assurance required by this chapter or conditions of approval of permit;
3. Removal of the facilities by the [City/Town] in accordance with the procedures established under the [City/Town] Municipal Code for abatement of a public nuisance at the owner's expense; or
4. Any other remedies permitted under the [City/Town] Municipal Code.

C. Summary removal. In the event the zoning administrator determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the zoning administrator may cause the facility to be removed summarily and immediately without advance notice or a hearing. If the circumstances allow for it and, to the extent feasible, the zoning administrator will notify the permittee to remove the facility and allow for the reinstallation of the facility, subject to the permittee demonstrating to the satisfaction of the [City/Town] Building Official and zoning administrator that the work can be done in safe manner compliant with the original Approved Plans and Section 10.04.100. Written notice of the removal shall be served upon the person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner's pick-up, as is reasonably feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.

D. Removal of facilities by [City/Town]. In the event the [City/Town] removes a facility in accordance with this chapter, any such removal shall be without any liability to the [City/Town] for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the [City/Town] may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the [City/Town] Municipal Code. Unless otherwise provided herein, the [City/Town] has no obligation to store such facility. Neither the permittee, the owner, nor the operator shall have any claim if the [City/Town] damages or destroys any such facility not timely removed by the permittee, owner, or operator after notice, or removed by the [City/Town] due to exigent circumstances.

10.04.230 Authorization for Departmental Forms, Rules, and Other Regulations.

The [insert governing body of the City/Town] authorizes the zoning administrator to develop and publish permit application forms, checklists, informational handouts and other related materials that the zoning administrator finds necessary, appropriate or useful for processing requests, applications, permits, or any other matter under this chapter. Without further authorization from the [insert governing body of the City/Town], the zoning administrator may from time-to-time update and alter any such permit application forms, checklists, informational handouts and other related materials as the zoning administrator deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The [insert governing body of

the City/Town] authorizes the zoning administrator to establish other reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the zoning administrator deems necessary or appropriate to organize, document, and manage the application intake and permitting process.

10.04.240 Appeals.

A. Appeals by Applicants. Notwithstanding any provision of the [City/Town] Municipal Code to the contrary, including, but not limited to, the zoning regulation, any applicant may appeal a decision by the zoning administrator under this Chapter. The appeal must be filed within two (2) days from the zoning administrator's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The [insert governing body of the City/Town] shall serve as the appellate authority for all appeals of all actions of the zoning administrator taken pursuant to this section. The [City/Town] shall provide notice for an administrative hearing by the [insert governing body of the City/Town].

The (insert governing body of the Town) shall limit its review to whether the project should be approved or denied in accordance with the provisions in this Chapter.

B. Appeals by the General Public. Any interested person or entity may appeal any decision by the approval authority in accordance with the standards and procedures in the Zoning regulations, except as modified in this Section. On the next available meeting date after the appeal period lapses, or as soon as reasonably feasible thereafter, the appellate body shall hold a public hearing to consider and act on the application in accordance with the applicable provisions in the Plan of Conservation and Development, any applicable specific plan and all applicable provisions in the [City/Town] Municipal Code. Appeals from an approval will not be permitted to the extent that the appeal is based on environmental effects from RF emissions that comply with all applicable FCC regulations.

10.04.250 Effect on Other Ordinances

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the [City/Town] Municipal Code, including, but not limited to, obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this chapter and other provisions of the [City/Town] Municipal Code, this chapter shall control.