



# THE CITY OF MAYFIELD HEIGHTS ~ BUILDING DEPT.

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## DESIGN GUIDELINES FOR SMALL CELL FACILITIES AND WIRELESS SUPPORT STRUCTURES IN THE PUBLIC WAY

### Part I Basis for Design Guidelines

#### Section 1. Introduction

- A. This document is published pursuant to and is to be read in conjunction with Chapter 910 of the Codified Ordinances of the City of Mayfield Heights, Ohio.
- B. The Building Department of the City of Mayfield Heights, Ohio, is the responsible agency for administering the receipt and processing of applications for small cell facilities and wireless support structures in the City's right-of-way.

#### Section 2. General Requirements

- A. All Public work shall be furnished and placed in compliance with the following general standards for construction in the public right-of-way:
  - a. City of Mayfield Heights Codified Ordinances.
  - b. Ohio Revised Code Chapter 4939.
  - c. State of Ohio City of Transportation, (ODOT), Construction and Material Specifications (CMS), latest edition.
  - d. American Association of State Highway and Transportation Officials; (AASHTO), Standards and Guidelines; (latest editions).
  - e. National Fire Protection Association 70 National Electric Code; (NFPA-70 NEC); (latest edition).
  - f. Americans with Disabilities Act and implementing regulations, including, without limitation, currently proposed Americans with Disabilities Act Accessibility Guidelines (ADAAG) promulgated by the United State Access Board.
  - g. All other applicable local, state, and federal codes and regulations.

#### Section 3. Existing Public Way Restoration Requirements

- A. **Streets, Alleys, Tree Lawns and other Public Ways:** Upon installation of the new work, the contractor shall restore all disturbed areas to their prior existing condition, unless waived in writing by the City.
- B. **Sidewalks:**
  - a. Upon installation of the new work, the contractor shall restore all disturbed areas to their prior existing condition, unless waived in writing by the City.
  - b. Upon installation of the new work, all grassy areas shall be replanted with topsoil and sod in compliance with ODOT CMS standards.

### Part II Permit Applications

#### Section 1. Requirements

This Section describes necessary requirements for a permit application. The City may from time-to-time develop and publish new or additional permit application forms, checklists, informational handouts and other related materials. To avoid unnecessary delay in

application processing, applicants are strongly encouraged to contact the City before submittal to ensure that it has received and reviewed the most up-to-date requirements.

- A. **Application Fee.** The applicant must provide the applicable permit application fee in the amount currently required by the City and listed in its permit fee schedule.
- B. **RF Compliance Affidavit.** Applicants must submit a sworn affidavit prepared and signed by an RF engineer with knowledge about the proposed project that affirms the proposed project will be compliant with all applicable governmental regulations in connection with human exposure to radiofrequency emissions. The affidavit must include (1) all frequencies on which the equipment will operate; (2) how many channels will be used on each frequency; (3) the effective radiated power ("**ERP**") output level in measured watts; and (4) the height above ground for the lowest point on the lowest transmitter. The required disclosures must be included for all transmitters on the support structure, which includes without limitation existing collocated antennas and antennas used for wireless backhaul (such as microwave dish antenna or U/E relay).
- C. **Regulatory Authorization.** To the extent that the applicant claims any regulatory authorization or other right to use the Public Way, the applicant must provide a true and correct copy of the certificate, license, notice to proceed or other regulatory authorization that supports the applicant's claim.
- D. **Owner's Authorization.** Applicants must submit evidence sufficient to show that either (1) the applicant owns the proposed support structure or (2) the applicant has obtained the owner's authorization to file the application.
- E. **Site Plans and Structural Calculations.** The applicant must submit fully dimensioned site plans, elevation drawings and structural calculations prepared, sealed, stamped and signed by a Professional Engineer licensed and registered by the State of Ohio. Drawings must depict any existing small cell facilities and wireless support structures with all existing transmission equipment and other improvements, the proposed facility with all proposed transmission equipment and other improvements, and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements.
  - a. **Photo Simulations.** For all applications other than a Type I application for a collocation or modification to an existing facility with no concealment, the applicant must provide photo simulations from at least two reasonable line-of-site locations in the vicinity of the proposed project site. Photo simulations must be included in the site plans on a separate sheet.
  - b. **Equipment Specifications.** For all equipment depicted on the plans, the applicant must include (1) the manufacturer's name and model number; (2) physical dimensions, including without limitation height, width, depth and weight with mounts and other necessary hardware; and (2) the ambient noise level generated from the equipment, if any.
- F. **Justification Statement.** For all Type II and Type III applications, the applicant must submit a written justification statement that includes (1) a short, plain statement to explain the applicant's technical objective and how the proposed facility will suit that technical objective; (2) color signal propagation maps with objective signal measurements in dBm (RSSI or RSRP), if the technical objective involves a gap in the applicant's service coverage; (3) forward data volume and average eligible scheduled user data for the affected macrosite, if the technical objective is to offload traffic from an existing facility; and (4) evidence that the applicant engaged in a reasonably diligent investigation as to whether any other potential locations would reasonably achieve the applicant's technical objective, including the physical address for each location and meaningful comparative analysis with the reasons why the applicant ruled out each alternative location. The City shall not require a justification statement when the applicant proposes a Type I application

or a standard configuration facility subject to minor review, as defined in these Guidelines.

- G. **Eligible Facilities Request Worksheet.** For all proposed installations, the applicant must submit a completed Eligible Facilities Request Application.
- H. **Deposit Necessary to Cover Cost of Consultant.** If the City determines the need to retain a consultant for services required herein, a deposit will be required to cover the City's estimated costs to retain the consultant. The estimate shall not be binding on the City and the City may require further deposits.

## **Section 2. Pre-Submittal Conference**

- A. **Purpose.** The City offers pre-submittal conferences to meet with potential applicants and discuss possible projects on a conceptual level. The conference is intended to identify the correct application type and content requirements for any given project, and also to create an informal forum in which applicants and the City can discuss any aesthetic, historic preservation or other concerns that should be addressed as soon as possible to avoid any unnecessary delays in the processing of an application and deployment of small cell facilities and wireless support structures in the City.
- B. **Appointment Required.** An appointment is required for all pre-submittal conferences. City staff may establish regular hours in which appointments are available. City staff will endeavor to provide applicants with an appointment within approximately five (5) business days after receipt of a written or email request. Each conference is generally limited to discussion of a single potential project, but applicants may request to discuss multiple projects provided that the additional time required does not prejudice other applicants' ability to obtain an appointment.
- C. **Optional Pre-Submittal Conferences.** Pre-submittal conferences are strongly encouraged but not required for (1) all Type I applications and (2) standard configuration facilities subject to minor review.
- D. **Mandatory Pre-Submittal Conferences.** Pre-submittal conferences are required for all projects subject to standard review, including without limitation all Type II applications and all Type III applications for a non-standard configuration facility.
- E. **Limited Waiver from Application Requirements.** The City may grant a limited, written waiver from the obligation to submit a justification statement and/or photo simulations when the City finds that strict compliance with the requirement would create an unnecessary or unreasonable burden. For example, the Building Department might waive the justification statement for a standard configuration facility in a location that requires standard review because the City finds that the specific proposed location for the facility raises no aesthetic concerns. The applicant's request for a waiver must describe the proposed site location and design with sufficient particularity to allow the City to ascertain whether a later-submitted application is the same proposal for which the waiver was granted.

## **Section 3. Application Submittal Procedures**

All applications must be submitted in person to the City with the applicable application fee to be considered duly filed. The City may establish regular hours in which applications may be submitted, but will generally receive applications on working days between 8:00 a.m. and 3:30 p.m. Applications submitted by any other means, including without limitation by mail, electronic mail or facsimile, or outside the established submittal times, if any, will not be considered duly filed.

**Part III**      **General Standards for all Modifications**

- A. Facilities, which for purposes of these Design Guidelines are defined as small cell facilities, accessory equipment and wireless support structures, shall not be installed unless the Facilities are compliant with these Design Guidelines, Chapter 910 of the Codified Ordinances and any Application requirements, and all applicable local, state, and federal laws.
- B. Facilities Operator, which for purposes of these Design Guidelines is defined as the person or entity responsible for the installation, operation, maintenance, replacement and modification of Facilities, shall not construct, maintain, modify, operate, or replace any Facilities not clearly depicted in an Application for a Small Cell Use Permit.
- C. All work shall be performed in a professional manner consistent with the highest standards of workmanship.
- D. Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.
- E. Facilities shall not be installed in any location that causes any interference with the City's public safety radio system, traffic and emergency signal light system or other City safety communications systems or system components.
- F. The City may propose an alternative location for proposed Facilities up to one hundred (100) feet from the proposed location, or within a distance that is equivalent to the width of the Public Way, whichever is greater. The Facilities Operator shall utilize the alternative location unless the Facilities Operator shows that the alternative location is not technically feasible.
- G. Facilities shall not interfere with existing or planned street trees.
- H. Signage shall be mounted on all new Facilities providing the Facilities Operator's name, an emergency contact phone number, an informational contact number, and all other information required by law. Unless otherwise prohibited by law, signage shall be discreet in color and shall match the Facilities and surrounding area, and the font size used on the sign shall be no smaller than 9 point font and no larger than 14 point font.
- I. Unless otherwise required by law, all manufacturer stickers and decals shall be removed from Facilities.
- J. Facilities shall be camouflaged using existing land forms, vegetation and structures to screen the Facilities from view, and to blend in with the surrounding built and natural environment.
- K. The City may require the Facilities Operator to incorporate additional concealment elements before approving an Application. Concealment elements may include, but shall not be limited to, fencing, public art, strategic placement, and placement within existing or replacement street furniture.
- L. Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.
- M. All hardware, including antenna mounting brackets and hardware, antenna mounting posts, cables, shrouds and other mounted equipment shall be painted in a color designated by the City, and the color shall match the Facilities. The City may require the Facilities Operator use a different, non-matching color on a case-by-case basis when the City determines a non-matching color would better fulfil the purposes of these Design Guidelines.

- N. A Facilities Operator shall remove or paint over any graffiti on the Facilities at Facility Operator's sole expense as soon as practicable, but no later than thirty (30) days from the date the Facilities Operator receives notice of the graffiti.
- O. In all locations the City reserves the right to require a metal tower rather than a wood tower based on the as-built and/or natural environment character of the proposed site location. Wood towers should not be permitted in the following areas:
  - (1) Areas zoned as U-4, U-4-A, U-4-B, U-7 and U-8, or
  - (2) Areas where plans call for underground utilities or not using wood pole.
- P. Facilities should be located, sited and erected in accordance with the following priorities, 1 being the highest priority and 7 being the lowest priority:
  - (1) On existing towers, monopoles, buildings or structures on City-owned property, if allowed.
  - (2) On existing towers, monopoles or other structures on other property in the City.
  - (3) A new concealment/stealth wireless support structure on City-owned property.
  - (4) A new wireless support structure on City-owned property.
  - (5) A new concealment/stealth wireless support structure on property in any district.
  - (6) A new wireless support structure on property in the Retail/Business District.
  - (7) A new wireless support structure on property in the Residential Districts.
- Q. The City reserves the right to require a pre-construction meeting at any time in its sole discretion.

## **Part IV Minor Modifications (Type I Applications)**

### **Section 1. General Standards**

Minor modifications are additions or changes to previously approved facilities by the City. Federal regulations provide specific definitions and criteria for approval or denial. The provisions in this Part III are intended to assist applicants and the City to determine whether an application qualifies for approval as a minor modification.

### **Section 2. Definitions.**

The definitions in Section 910.02 of the Codified Ordinances shall apply to Type I applications for a minor modification.

### **Section 3. Approvals and Denials.**

- A. **Criteria for Approval.** The City may approve or conditionally approve a Type I application for a minor modification when it finds that the proposed project:
  - a. involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
  - b. does not substantially change the physical dimensions of the existing wireless tower or base station.

- B. **Criteria for Denial.** Notwithstanding any other provisions in these Guidelines, and consistent with all applicable federal laws and regulations, the City may deny a Type I application for a minor modification when it finds that the proposed project:
- a. does not satisfy the criteria for approval;
  - b. violates any legally enforceable standard or permit condition reasonably related to public health and safety; or
  - c. involves the replacement of the entire support structure.
- C. **Written Decision.** Within five (5) working days after the City renders a decision, the City shall send written notice to the applicant. In the event that the City determines that a Type I application does not qualify for approval, the City will send written notice to the applicant that includes the reasons to support the City's decision.

## **Part V Major Modifications and New Facilities (Type II and Type III Applications)**

### **Section 1. General Standards**

The City desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community. All small cell facilities and wireless support structures in the Public Way must comply with all applicable provisions in this section. In the event that any other law, regulation or code requires any more restrictive structural design and/or construction requirements, the most restrictive requirement will control.

- A. **Collocation.** The City desires and encourages collocations between two separate wireless service providers on the same support structure whenever feasible and safe.
- B. **Antennas.** The antenna(s) associated with the first installation must be top-mounted and concealed within a radome that also conceals the cable connections, antenna mount and other hardware. The City may approve a side-mounted antenna with the initial installation if, in the City's discretion, the side-mounted antenna would be more appropriate given the as-built environment, the neighborhood character and the overall site appearance, and would promote the purposes in these Guidelines. GPS antennas must be placed within the radome or directly above the radome not to exceed six inches.
- C. **Pole-Mounted Equipment Cages.** When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage not to exceed 21 cubic feet in total volume.

Equipment cages may not extend more than 10 inches beyond the pole centerline on either side. The equipment cage must be non-reflective and painted, wrapped or otherwise colored to match the existing pole. The City prefers and strongly encourages equipment cages to be mounted flush to the pole. All pole-mounted equipment must be installed as flush to the pole as possible. Any standoff mount for the equipment cage may not exceed 4 inches and the must include metal flaps (or "wings") to conceal the space between the cage and the pole.

- D. **Undergrounded Equipment Vaults.** The City generally permits pole-mounted equipment in self-contained cages, but for applications subject to standard review, the City may require placement of the equipment in an environmentally controlled underground vault.

- E. **Ground-Mounted Equipment.** The City will not approve any new ground-mounted equipment unless the applicant (1) proposes the ground-mounted equipment in connection with a tapered metal pole, and (2) shows clear and convincing evidence that the equipment cannot be feasibly installed as a pole-mounted installation, in an environmentally controlled underground vault, or within an existing street feature (such as a bus stop shelter) for a valid technical reason. Increased costs alone shall be presumed to be insufficient. Ground-mounted equipment shall not be permitted in connection with a wood pole. In the event that the City approves ground-mounted equipment, the applicant must conform to the following requirements:
- a. **Self-Contained Cabinet or Shroud.** The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the tapered metal pole and undergrounded between the pole and the ground-mounted cabinet.
  - b. **Concealment.** The City may require the applicant to incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, public art displayed on the cabinet, strategic placement in less obtrusive locations and/or placement within existing or replacement street furniture.
  - c. **Ambient Noise Suppression.** The City may require the applicant to incorporate ambient noise suppression measures and/or require the applicant to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations.
- F. **Utility Lines.** Service lines must be undergrounded whenever feasible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.
- G. **Electric Meter.** Multiple operators on a shared pole shall share a single electric meter. Site operators shall use the smallest and least intrusive electric meter available. The City strongly encourages site operators to use flat-rate electric service when it would eliminate the need for a meter. Whenever permitted by the electric service provider, the electric meter should be painted to match the pole.
- H. **Telephone/Fiber Optic Utilities.** Cabinets for telephone and/or fiber optic utilities may not extend more than 10 inches beyond the pole centerline on either side, and must be painted, wrapped or otherwise colored to match the pole. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna.
- I. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.
- J. **Underground Conduit.** All underground conduit placed behind the curb face and underneath the sidewalk must be SCH 40 PVC encased in concrete. All underground conduit must be SCH 40 PVC encased in rigid metal material when placed: (1) underneath driveway aprons, (2) within tree wells or (3) in front of the curb face and beneath the street.
- K. **Above-Ground Conduit.** On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of 4" diameter, and painted to match the pole.

- L. **Ground Rods.** All ground rods shall be 1 inch in diameter and 10 feet in length made from copper-clad steel (high strength) as required in ASTM A:325.
- M. **Lights.** Unless otherwise required for compliance with FAA or FCC regulations, the facility shall not include any permanently installed lights. Any lights associated with the electronic equipment shall be appropriately shielded from public view. The provisions in this subsection shall not be interpreted to prohibit installations on streetlights or the installation of luminaires on new poles when required by the City.
- N. **Generally Applicable Health and Safety Regulations.** All facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, including without limitation all applicable regulations for human exposure to RF emissions.

## **Section 2. Definitions.**

The definitions in Section 910.02 of the Codified Ordinances shall apply to Type II and Type III applications for major modifications.

## **Section 3. Approvals and Denials.**

- A. **Criteria for Approval.** The City may approve or conditionally approve a Type II or Type III application for major modifications when it finds that the proposed project:
  - a. involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
  - b. does not substantially change the physical dimensions of the existing wireless tower or base station.
- B. **Criteria for Denial.** Notwithstanding any other provisions in these Guidelines, and consistent with all applicable federal laws and regulations, the City may deny a Type II or Type III application for major modifications when it finds that the proposed project:
  - a. does not satisfy the criteria for approval;
  - b. violates any legally enforceable standard or permit condition reasonably related to public health and safety; or
  - c. involves the replacement of the entire support structure.
- C. **Written Decision.** Within five (5) working days after the City renders a decision, the City shall send written notice to the applicant. In the event that the City determines that a Type II or Type III application does not qualify for approval, the City will send written notice to the applicant that includes the reasons to support the City's decision.

## **Section 4. General Location Criteria**

- A. **Collocation Preference.** Whenever an applicant proposes to place a new wireless facility within 300 feet from an existing wireless facility, whether on a new pole or an existing potential support structure, the applicant must either collocate with the existing facility or demonstrate with clear and convincing evidence that a collocation is either not technically feasible or space on the existing facility is not potentially available.
- B. **General Limitation on New Poles.** The City strongly discourages more than one (1) wireless facility on a new pole per block and will not approve more than one per block on each side of the street.

- C. **Alignment with Other Poles.** The centerline of any new pole must be aligned with the centerlines of existing poles on the same sidewalk segment (typically two feet from the back of the curb). After the City approves a proposed new pole location, but before the permittee commences construction, the permittee must verify the correct pole alignment in the field.
- D. **Setbacks for Visibility and Access.** Any new pole and/or equipment and other improvements associated with a new pole or an existing pole must be set back from intersections, alleyways and driveways and placed in locations where it will not obstruct motorists' sightlines or pedestrian access. In general, the City will presume that no obstruction will occur when a new pole and/or equipment is set back at least (i) 50 feet from any intersection; (ii) six (6) feet from any driveway cut or alleyway entrance or exit; and (iii) six (6) feet from any permanent object or existing lawfully-permitted encroachment in the public right-of-way, including without limitation bicycle racks, traffic signs and signals, street trees, open tree wells, benches or other street furniture, streetlights, door swings, gate swings or sidewalk cafe enclosures. The City may, in its discretion, require an additional setback for a specific pole when it determines that the presumptively acceptable setback would nevertheless obstruct motorists' sightlines or pedestrian access.
- E. **Obstructions.** Any new pole and/or equipment and other improvements associated with a new pole or an existing pole must not obstruct any: (i) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (ii) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop (including, without limitation, bus stops, streetcar stops, and bike share stations); (iii) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (iv) fire hydrant access; (v) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right-of-way; or (vi) access to any fire escape.
- F. **Historic or Architecturally Significant Structures.** Any new pole and/or equipment and other improvements associated with a new pole or an existing pole may not be placed directly in front of any historic or architecturally significant structures in prominent or highly visible locations.

## **Section 5. New Poles and Replacement Poles**

- A. **General Restrictions on New Wood Poles.** In all locations, the City reserves the right to require a metal pole rather than a wood pole based on the as-built and/or natural environmental character of the proposed site location.
- B. **Overall Height.** Any pole greater than 36 feet above ground level shall be subject to standard review and approval by the City. The City shall consider other poles in the vicinity, the building environment, the neighborhood character, the overall site appearance and the purposes expressed in these Design Guidelines. The zoning district height limit shall not be determinative.
- C. **Pole Diameter.** Any wood pole with a diameter greater than 12 to 14 inches or any tapered metal pole with a diameter at base greater than 10 to 12 inches shall be subject to standard review and approval by the City. The City shall consider other poles in the vicinity, the building environment, the neighborhood character, the overall site appearance and the purposes expressed in these Design Guidelines.

- D. **Wood Pole Footings and Foundations.** All new wood poles must be direct buried to a depth determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Ohio, and subject to the City's review and approval.
- E. **Tapered Metal Pole Footings and Foundations.** All new tapered metal poles must be supported with a reinforced concrete pier designed, stamped, sealed and signed by a professional engineer licensed and registered by the State of Ohio, and subject to the City's review and approval. Footings and anchor bolts must be constructed from steel (high strength) per ATSM A36, threaded (J-type / L-type), hot-dip galvanized per ODOT CMS Item No. 711.02 and in a length and diameter determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Ohio, and subject to the City's review and approval. All anchor bolts must be concealed from public view with an appropriate pole boot or cover subject to the City's prior approval.
- F. **Tapered Metal Pole Material.** All tapered metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant material approved by the City and finished in accordance with these Design Guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements.
- G. **Metal Pole Finish.** Metal poles must be painted black (Federal Color No. 27038). The applicant may select a paint or powder coat system in compliance with ATSM standards.
- H. **Lighting; Banners.** The City may require the applicant to install functional streetlights and/or banners when technically feasible and the City determines that such additions will enhance the overall appearance and usefulness of the proposed facility.

## **Section 6. Installations on Existing Poles and Other Potential Support Structures**

- A. **General.** The City encourages applicants to consider existing poles and other potential support structures prior to any new pole to reduce congestion in the Public Way. The City will consider all generally applicable design, construction and location standards when reviewing applications for new facilities installed on existing poles or other potential support structures in the Public.
- B. **Privately-Owned Structures.** For a privately-owned structure in the Public Way onto which an applicant proposes to attach a wireless communications facility, if the owner of the structure has standards more restrictive than those contained in these Design Guidelines, the more restrictive standards shall control. If any portion of a privately-owned structure is on private property, the applicant must first obtain all applicable zoning and building permits prior to submittal of an application to the City.
- C. **City-Owned Structures.** The City, in its proprietary capacity, retains sole and absolute discretion over whether and on what terms it may allow small cell facilities and wireless support structures on its poles and other facilities in the public right-of-way notwithstanding conflicting design provisions set forth in these Guidelines. Applicants may not submit any applications in connection with City-owned poles or other facilities without a valid and fully executed agreement to use the specific pole or other facility. The City shall not authorize any attachments to City-owned infrastructure that negatively impacts the structural integrity of the support structure.
  - a. **Independent Power Source.** A Wireless Communications Facility on a City-owned Potential Support Structure may not use the same power source that provides power for the original purpose of the Potential Support Structure.

- b. **City-Owned Traffic Control Signal Poles.** The City prohibits small cell facilities and wireless support structures (and all other non-traffic control facilities) on City-owned traffic control signal poles.

## **Section 7. Additional Design and Construction Standards for Major Modifications**

In addition to all applicable General Design and Construction Standards, the City requires all major modifications to eligible facilities (Type II application) to comply with the following requirements:

- A. **Coordination with Original Facility Design.** The applicant must design the proposed installation in a manner that mimics the design and any concealment elements of the existing facility. To the extent feasible, new facilities should utilize capacity in existing equipment cages or cabinets and existing conduits or risers. The City may, in its discretion, authorize the applicant to replace an existing equipment enclosure with a larger one when the City determines that a larger enclosure is more visually appropriate than a second enclosure on the same support structure.
- B. **Antennas.** Any additional antenna(s) installed to the support structure must be side-mounted and parallel to the roadway. The City prohibits side-mounted antennas that overhang the roadway, but may permit side-mounted antennas that overhang the sidewalk provided that the antenna complies with all applicable setbacks requirements in these Guidelines and the CMC.
- C. **Structural Integrity.** Any additional equipment must not negatively impact the structural integrity of the support structure and must comply with all applicable local, state and federal codes and regulations.

## **Section 8. Standard Configuration Facilities**

- A. **Definition.** The City defines a "standard configuration facility" as a pole-mounted wireless communication facility less than or equal to 36 feet above ground level in overall height, with pole-mounted or underground equipment and compliant with all applicable general design standards and all the general location standards. Proposed facilities with ground-mounted equipment shall not be eligible for review as a standard configuration facility.
- B. **Applicable Standard of Review.** To encourage standard configuration facilities in appropriate locations, the City generally applies minor review. Applications for standard configuration facilities may require standard review in certain locations where, for example, historic resources or the City's investment in the Public Way necessitates a closer examination or a design more tailored to the specific location and context.
- C. **Standard Configuration Facilities on Existing Poles.** In accordance with the City's general preference for small cell facilities and wireless support structures on existing potential support structures, a proposed standard configuration facility on an existing pole will be eligible for minor review provided that the proposed facility on the existing pole does not exceed 36 feet above ground level and the finished project complies with all applicable design, construction and location standards.

## **Part VI Approvals and Denials**

### **Section 1. Required Findings for Approvals.**

- A. **Standard Review.** The City may approve or conditionally approve an application subject to standard review only when it finds that:
- a. the proposed wireless facility, its support structure, equipment and all associated improvements have been designed and sited in a manner that is sympathetic to the particular architectural character of the buildings and compatible with the streetscape in the vicinity of the proposed project site;
  - b. design elements of the proposed wireless facility, its support structure, equipment and all associated improvements have been sensitively selected to reflect the detailing and materials associated with the buildings and streetscape in the vicinity of the proposed project site;
  - c. the proposed wireless facility, its support structure, equipment and all associated improvements have been designed and sited in a manner that does not adversely impact right-of-way circulation, accessibility, or obstruct existing or planned-future uses of the right-of-way; and
  - d. the proposed wireless facility complies with all applicable design, construction and location provisions in these Design Guidelines.
- B. **Minor Review.** The City may approve or conditionally approve an application for a standard configuration facility subject to minor review only when it finds the following:
- a. the proposed project complies with all applicable design and construction standards for a standard configuration facility;
  - b. the proposed project complies with all applicable location standards; and
  - c. the project is proposed in a location identified appropriate for minor review.

### **Section 2. Minor Technical Exceptions.**

- A. **Purpose.** The City recognizes that in some circumstances strict compliance with these Design Guidelines may result in undesirable aesthetic outcomes, and that minor deviations should be granted when the need for such deviation arises from circumstances outside the applicant's control. For example, if an applicant proposes to construct a standard configuration facility in an office district, but requires a pole with a slightly wider base due to poor foundation conditions, the City would consider granting a technical exception rather than subjecting an otherwise preferred design to a standard review. In contrast, if an applicant proposed a 50-foot tall standard configuration facility in an office district because it desired additional service area, the City would apply standard review because the need for additional height arises from the applicant's preferences.
- B. **Required Findings.** The City may, in its sole discretion, grant a minor technical exception from strict compliance with the design and location guidelines when the City finds that:
- a. the applicant has requested an exception in writing;
  - b. the proposed facility would normally qualify for minor review but for the need for a minor technical exception;

- c. the need for the exception arises from an external factor outside the applicant's control that impact public health, safety or welfare, including without limitation soil compaction, existing congestion or clutter within the right-of-way or other location-specific phenomenon;
- d. the proposed deviation from the applicable requirement is less than 10% larger than the generally applicable standard; and
- e. the granting of a minor technical exception would not create any obvious hazard or unreasonable obstruction in the public right-of- way.

### **Section 3. Written Decision.**

Within five (5) working days after the City renders a decision, the City shall send written notice to the applicant. Any denial shall include the reasons for the denial, and information about how and when to file an appeal.

## **Part VII Indemnification; Penalties; Equitable Remedies**

- A. Any operator who owns or operates small cell facilities or wireless support structures in the public way shall indemnify, protect, defend, and hold the City and its elected officials, officers, employees, agents and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the operator who owns or operates small cell facilities and wireless service in the public way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in a public way.
- B. Any person who shall erect, construct, reconstruct, alter, repair, convert, attach, or maintain any small cell facility or wireless support structure in violation of any of the terms of Chapter 4939 of the Ohio Revised Code, Chapter 910 of the Codified Ordinances of the City or these Design Guidelines, or who, being the owner or agent of the owner of any lot, tract, or parcel of land, shall suffer or permit another to erect, construct, reconstruct, alter, repair, convert, attach, or maintain any such facility, shall be deemed to have violated the provisions hereof and commits a third degree misdemeanor each day during the period such violation continues.
- C. If any small cell facility or wireless support structure is erected, constructed, reconstructed, altered, repaired, converted, attached, or maintained in violation of Chapter 4939 of the Ohio Revised Code, Chapter 910 of the Codified Ordinances of the City or these Design Guidelines, or of any regulations made pursuant hereto, the proper officer of the City, in addition to other remedies, may institute in the name of the City any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, attachment, or use, to restrain, correct, or abate such violation, to prevent the use of such facility, and/or to prevent any illegal act, conduct business, or use in or about such facility.
- D. The Service Department is authorized to make requests and to issue orders regarding small cell facilities in the public way for the purpose of public safety and compliance with Chapter 4939 of the Ohio Revised Code, Chapter 910 of the Codified Ordinances of the City or these Design Guidelines. The Service Department and/or Building Department are also authorized to conduct visual and external inspections of small cell facilities and

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wireless support structures in the public way at any time, and shall make efforts to coordinate with the provider responsible for a small cell facility for any internal inspection of the relevant equipment.

- E. Nothing in Chapter 4939 of the Ohio Revised Code, Chapter 910 of the Codified Ordinances of the City or these Design Guidelines shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of these regulations.

10/2018