

**POOLESVILLE PROPOSED CODE FOR AUTHORIZING SMALL CELL DEPLOYMENT IN
THE PUBLIC RIGHTS OF WAY.**

January 2019

Chapter 18

SMALL CELL DEPLOYMENT IN THE PUBLIC RIGHTS OF WAY

Sec. 18.1 Definitions.

- A. **"Antenna"** means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.
- B. **"Applicable Codes"** means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Town of Poolesville, including any amendments adopted by the Town of Poolesville, or otherwise are applicable in the jurisdiction.
- C. **"Applicant"** means any Person who submits an Application under this Chapter.
- D. **"Application"** means a written request, on a form provided by the Town of Poolesville, for a Permit.
- E. **"Collocate"** means to install or mount a Small Wireless Facility in the Public ROW on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the Application. "Collocation" has a corresponding meaning.
- F. **"Communications Facility"** means, collectively, the equipment at a fixed location or locations within the Public ROW that enables Communications Services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.
- G. **"Communications Service"** means cable service, as defined in 47 U.S.C. § 522(6); broadband services, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).
- H. **"Communications Service Provider"** means a provider of Communications Services and includes a cable operator, as defined in 47 U.S.C. § 522(5).
- I. **"Completed application"** means application that contains all necessary and required information and/or data as set forth in this chapter and that is necessary to enable an informed decision to be made with respect to an application and action on the application.
- J. **"DAS" or "distributive access system"** means a technology using antenna combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas, cabling or fiber optics.
- K. **"Decorative Pole"** means a Pole that is specially designed and placed for aesthetic purposes.
- L. **"Eligible Facilities Request"** means an eligible facility request as set forth in 47 C.F.R. Section 1.40001(b)(3), as that section may be amended from time to time.
- M. **"Facility"** means wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.
- N. **"FCC"** means the Federal Communications Commission of the United States.
- O. **"Height"** means, the distance measured from the pre-existing grade level to the highest point on the tower or support structure, even if said highest point is an antenna or lightning protection

device. As regards increasing the height of an existing structure, height means the height above the top of the structure prior to any work related to a wireless facility.

- P. **"Laws"** means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.
- Q. **"Modification" or "modify"** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility with identical components, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to an existing support structure or tower as a co-location is a modification, unless the height, profile or size of the compound is increased, in which case it is not a modification.
- R. **"Ordinary Maintenance and Repair"** means inspections, testing and/or repair that maintain functional capacity, aesthetic and structural integrity of a Communications Facility and/or the associated Support Structure, Pole or Tower, that does not require blocking, damaging or disturbing any portion of the Public ROW.
- S. **"Permit"** means a written authorization (in electronic or hard copy format) to install, at a specified location(s) in the Public ROW, a Communications Facility, Tower or a Pole to support a Communications Facility.
- T. **"Permittee"** means an Applicant that has received a Permit under this Chapter.
- U. **"Person"** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.
- V. **"Pole"** means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the Public Right of Way. A Pole does not include a Tower or Support Structure and does not include a pole or structure that supports electric transmission lines.
- W. **"Provider"** means a Communications Service Provider or a Wireless Services Provider and includes any Person that owns and/or operates within the Public ROW any Communications Facilities, Wireless Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities or Towers.
- X. **"Public Right of Way" or "Public ROW"** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this Chapter shall include Public Utility Easements, but only to the extent the Town of Poolesville has the authority to permit use of the area or Public Utility Easement for Communications Facilities or Poles, Towers and Support Structures that support Communications Facilities. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Town of Poolesville.
- Y. **"Public Utility Easement"** means, unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public Utility Easement does not include an easement dedicated solely for the Town of Poolesville's use, or where the proposed use by the Provider is inconsistent with the terms of any easement granted to the Town of Poolesville.
- Z. **"Repairs and maintenance"** means the replacement or repair of any components of a wireless facility or complex where the replacement is effectively identical to the component being

replaced, or for any matters that involve the normal repair and maintenance of a wireless facility or complex without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility or complex that will impose new visible burdens of the facility or complex as originally permitted. Any work that changes the services provided to or from the facility, or the equipment, is not repairs or maintenance.

- AA. **"Replace" or "Replacement"** means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Chapter and any other applicable Town of Poolesville code regulations, in order to address limitations of the existing structure to structurally support Collocation of a Communications Facility.
- BB. **"Small Wireless Facility"** means a Wireless Facility that meets both of the following qualifications: (i) each Antenna could fit within an enclosure of no more than ___ () cubic feet in volume; and (ii) all other wireless equipment associated with the Antenna, including the Provider's preexisting equipment, is cumulatively no more than _____ () cubic feet in volume
- CC. **"Special Exception Use"** means the permitting of a specific use that requires some additional review and precautions to protect the health, safety, and welfare of the community.
- DD. **"State"** means the State of Maryland.
- EE. **"Stealth"** or "stealth siting technique" means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean building the least visually and physically intrusive facility and complex that is not technologically or commercially impracticable under the facts and circumstances. Stealth technique includes such techniques as i) DAS or its functional equivalent; or ii) camouflage where the tower is disguised to make it less visually obtrusive and not recognizable to the average person as a wireless facility or complex.
- FF. **"Substantial modification"** means a change or modification that:
1. Increases the existing vertical height of the structure; or
 2. Adds an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure or more than the width of the wireless support structure; or
 3. Increases the square footage of the existing equipment.
- GG. **"Support Structure"** means a structure in the Public ROW other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.
- HH. **"Tower"** means any structure in the Public ROW built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.
- II. **"Town"** means the Town of Poolesville, Maryland
- JJ. **"Wireless Facility"** means the equipment at a fixed location or locations in the Public ROW that enables Wireless Services. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one type of a Wireless Facility.
- KK. **"Wireless Services Provider"** means a Person who provides Wireless Services.

Sec. 18.2 Access to Public ROW

- A. Prior to installing in the Public ROW any Communications Facility, or any Pole built for the sole or primary purpose of supporting a Communications Facility, or any Tower, a Person shall enter into a [Right of Way Agreement; Franchise Agreement; License Agreement] with the Town expressly authorizing use of the Public Right-of-Way for the Communications Facility, Pole or Tower proposed to be installed.
- B. In order to ensure that the location, placement, construction and modification of a facility or the components of a complex do not endanger or jeopardize the Town's health, safety, public welfare, environmental features, the nature and character of the community or neighborhood and other aspects of the quality of life specifically listed elsewhere in this chapter, the Town hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or administrative approval granted authority for wireless facilities for the express purpose of achieving the following outcomes:
1. Requiring that permits will not be issued unless the Provider has a franchise/agreement/license, if required, and has paid all applicable fees.
 2. Requiring a Special Exception Use approval for any new facility or any modification of a facility or for a co-located facility.
 3. Requiring administrative approval and a properly issued Zoning Compliance Permit for any co-location or modification of a facility that is not a substantial modification or co-location.
 4. Implementing an application process and requirements.
 5. Establishing procedures for examining an application and issuing a special use permit or administrative approval that are fair and consistent.
 6. Promoting, and requiring wherever possible, the sharing and/or co-location of support structures among service providers.
 7. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of attachments to a facility or complex in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth siting techniques.
 8. The Town is the officially designated agency or body of the municipality to whom applications for a Special Exception Use for a facility or complex must be made, and that is authorized to make decisions with respect to granting or not granting or revoking Special Exception Uses applied for under this chapter.
 9. The Town hereby designates the Town Manager or designee as the authority for requests for all administrative approvals, i.e. for anything other than a substantial modification or a new facility.
 10. Prior to the submission of an application there shall be a pre-application meeting for all intended applications. The pre-application meeting may be held either on site or telephonically as deemed appropriate by the Town Manager. The purpose of the pre-application meeting will be to address
 - a. issues that will help to expedite the review and permitting process; and
 - b. specific issues or concerns the Town or the applicant may have.
 11. Costs of the Town's consultant to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a fee set forth in the Town's fee schedule, which shall have been paid to the Town prior to any site visit or pre-application meeting or any work related to an intended application preceding the site visit or pre-application meeting.

12. If there has not been a prior site visit for the requested facility within the previous six months a site visit shall be conducted.
13. An applicant shall submit to the Town the number of completed applications determined to be needed at the pre-application meeting. If Town action is required, applications will not be transmitted to the Town for consideration until the application is deemed complete by staff or the Town's consultant.
14. All applicants shall closely follow the instructions for preparing an application. Not following the instructions without permission to deviate from such shall result in the application being deemed incomplete and a tolling of the time allowed for action on an application until a complete application is received.
15. Within thirty (30) days of the date of submission of an application the applicant shall be notified in writing of any deficiencies related to the completeness of the application. Remediation of deficiencies in an application shall be deemed an amendment of the application that was received.
16. The Town may deny applications not meeting the requirements stated herein or which are otherwise not complete after proper notice and a reasonable opportunity to make the application complete has been afforded. Applications will be deemed abandoned if left incomplete for more than ninety (90) days after the date of notice of incompleteness.
17. No work of any kind on or at a facility shall be started until the application is reviewed and approved and the Special Exception Use or administrative approval, as applicable, has been approved, and a Zoning Code Compliance permit has been issued in accordance with the Town's Code.
18. Any and all representations made by the applicant or that are made in support of the application shall be deemed to be on the record, whether written or verbal, and shall be deemed to have been relied upon in good faith by the Town. Any verbal representation shall be treated as if it were made in writing.
19. Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a facility shall be issued where the facility is not in full compliance with all applicable local, state and federal laws, rules, regulations and orders. A facility not in full compliance with this chapter shall be required to be brought into full compliance before any permit of any kind will be issued.
20. An application shall be signed on behalf of the applicant(s) by a person vested with the authority to bind and commit the applicant attesting to the truthfulness, completeness and accuracy of the information presented.
21. Applications shall include written commitment statements to the effect that:
 - a. The applicant's facility shall at all times and without exception be maintained in a safe manner, and in compliance with all conditions of all permits, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable town, state and federal laws, rules, and regulations, unless specifically granted relief by the Town in writing; and
 - b. The construction of the facility is legally permissible, including, but not limited to the fact that the applicant is licensed to do business in the state.
22. Where a certification is called for in this chapter, such certification shall bear the signature and seal of a professional engineer licensed in the state.

23. A Permittee of a Special Exception Use or administrative approval granted authority under this chapter shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.
24. An applicant intending to co-locate on or at an existing facility or complex shall be required to document the intent of the existing owner to permit its use by the applicant.
25. Any technical information must be provided in such a manner, detail and form that the content and any conclusions are able to be verified by a third party using the information used and provided by the applicant.
26. All costs associated with the preparation and submission of an application and/or necessitated by the requirements for obtaining and maintaining any and all Town permits shall be borne by the applicant or permittee.
27. Inventory of existing sites. Each applicant for approval of an antenna and/or a tower shall provide to the Town Manager an inventory of its existing antennas and towers that are within the jurisdiction of the Town, including specific information about the location, height and design characteristics of each antenna. Applicants are encouraged to submit an inventory of potential future tower sites within the jurisdiction of the Town. The Town Manager may share such information with other applicants applying for administrative approval under this section or other organizations seeking to locate antennas within the jurisdiction of the Town; provided, however, that the Town Manager is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
28. Applicants must submit information showing that the small cell complies with the Federal Communications Commission's regulations concerning radio frequency emissions referenced in Section 332(c)(7)(B)(iv) of Title 47 of the United States Code.
29. Permit may be rescinded if construction is not substantially commenced within one year. Absent a showing of good cause, an applicant under this section may not renew the permit or resubmit an application to develop a small cell at the same location within six months of rescission.

Sec. 18.3

Application requirements for new facilities, support structure, or a substantial modification or co-location.

- A. All applicants for a Special Exception Use for a new wireless facility, including for a new tower or other new support structure or that constitutes a substantial modification, shall comply with the requirements set forth in this section. In addition to the required information set forth in this section, all applications for the construction or installation of new wireless facility or substantial modification shall contain the information hereinafter set forth prior to the issuance of a Zoning Compliance Permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.
 1. Ownership and Management.
 - a. The name, address, phone number and email address of the person preparing the application;

- b. The name, address, phone number and email address of the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name, email address and all necessary contact information shall be provided;
 - c. The postal address and tax map parcel number of the proposed site;
 - d. A copy of the FCC license(s) applicable for the intended use(s) of the wireless telecommunications facilities, including all FCC licensed frequency bands to be used;
 - e. The applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the applicant to share any new telecommunication tower or support structure that it constructs or has constructed for it.
 2. Zoning and Planning
 - a. The zone in which the proposed site is located;
 - b. The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all property lot lines;
 - c. The location, size of the footprint and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the application;
 - d. A site plan to scale, not a hand drawn sketch, showing the footprint of the facilities/support structures;
 - e. Elevation drawings showing the profile or the vertical rendition of the facility or support structure and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
 - f. The type of tower or support structure, the size of antenna proposed;
 - g. Disclosure in writing of any agreement in existence prior to the submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication facility that it constructs;
 - h. A certified statement of i) the total cost of construction for the work associated with the application; and ii) the total cost of all equipment of the applicant at the facility. To verify the accuracy of the information, the Town reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.
 3. Additional Submission Requirements
 - a. Applicant shall provide a written traffic control plan.
 - b. Applicant shall provide any additional utility construction information as required by Chapter 17 of the Poolesville Code.
- B. Fees and Charges.
 1. Permit Application Fee
 - a. Every Applicant shall pay a Permit application fee as set forth in the Town's fee schedule. The fee shall be paid upon submission of the Application
 2. Agreement/License Application Fee

- a. Every Person requesting a [Right of Way Agreement; Franchise Agreement; License Agreement] from the Town shall pay an application fee as set forth in the Town's fee schedule. The fee shall be paid upon submission of the [Right of Way Agreement; Franchise Agreement; License Agreement] application.
 3. ROW Use Fee.
 - a. In exchange for the privilege of non-exclusive occupancy of the Public ROW, the Provider shall pay the Town a fee as set forth in the Town's fee schedule. The ROW Use Fee shall be due and payable within thirty (30) days of [issuance of the [Right of Way Agreement; Franchise Agreement; License]] [issuance of the applicable Permit(s) required under this Chapter] and [annually/ quarterly/monthly] thereafter. Late payments shall be subject to interest at a rate of [_____] [and a penalty of _____].
 4. Other Fees.
 - a. The Applicant or Provider shall be subject to any other generally applicable fees of the Town or other government body, such as those required for electrical permits, building permits, or street opening permits, which the Applicant or Provider shall pay as required in the applicable Laws.
 5. No Refund.
 - a. Except as otherwise provided in a [Right of Way Agreement; Franchise Agreement; License], the Provider may remove its Communications Facilities, Poles or Towers from the Public ROW at any time, upon not less than thirty (30) days prior written notice to the Town, and may cease paying to the Town any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the Public ROW. In no event shall a Provider be entitled to a refund of fees paid prior to removal of its Communications Facilities, Poles or Towers.
 6. Bonds.
 - a. Unless otherwise provided in a franchise agreement or agreed to in writing by the Town, a performance bond or other form of surety acceptable to the Town equal to at least one hundred twenty-five percent (125%) of the estimated cost of the work within the Public ROW shall be provided before the Applicant commences work.
- C. Effect of Permit
1. A Permit from the Town authorizes an Applicant to undertake only the activities in the Public ROW specified in the Application and Permit, and in accordance with this Chapter and any general conditions included in the Permit. A Permit does not authorize attachment to or use of existing Poles, Towers, Support Structures or other structures in the Public ROW not owned by the Town; a Permittee or Provider must obtain all necessary approvals from the owner of any Pole, Tower, Support Structure or other structure prior to any attachment or use. A Permit does not create a property right or grant authority to the Applicant to interfere with other existing uses of the Public ROW.
- D. Duration

1. Any Permit for construction issued under this Chapter shall be valid for a period of six (6) months after issuance, provided that the six (6) month period may be extended upon written request of the Applicant with reasonable cause
- E. Batch Permit Provision
1. An Applicant may simultaneously submit Applications for Communications Facilities, or may file a single, consolidated Application covering such Communications Facilities, provided that the proposed Communications Facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the Authority. If the Applicant files a consolidated application, the Applicant shall pay the application fee calculated as though each Communication Facility were a separate Application

Sec. 18.4

Requirements for Facilities.

- A. The Provider shall not locate or maintain its Communications Facilities, Poles and Towers so as to unreasonably interfere with the use of the Public ROW by the Town, by the general public or by other persons authorized to use or be present in or upon the Public ROW.
- B. All work at a facility shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code, the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- C. Unless such is proven to be technologically impracticable, the Town requires the co-location of new antenna arrays on existing structures, as opposed to the construction of new structures or increasing the height, footprint or profile of a facility beyond the conditions of the approved special use permit for an existing facility.
- D. A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technique as may be required by the Town.
- E. A DAS system that is owned or operated by a commercial carrier and is part of a commercial wireless system, or are used for commercial purposes, is expressly included in the context of this chapter, regardless of the location or whether the facility or any of its components is located inside or outside a structure or building.
- F. Any new wireless facility shall be designed and constructed so as to be the least visually intrusive, create the least visual impact reasonably possible and have the least negative impact

on nearby property values, provided that pursuant to 47 U.S.C. 332(c)(7)(B)(II) compliance with this requirement does prohibit or effectively serve to prohibit the provision of the intended service from one or more facilities.

- G. Above-ground placement of facilities and equipment cabinets shall be installed in the Public Right-of-Way and:
1. In a manner that does not impede, obstruct, or hinder pedestrian or vehicular travel.
 2. Does not significantly create a new obstruction to property sight lines.
 3. At the intersection of property lines, or along secondary property street facing.
 4. In alignment with existing trees, utility poles, and streetlights.
 5. Equal distance between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree.
 6. With appropriate clearance from existing utilities.
 7. Located at least 10 feet away from the triangle extension of a driveway flare.
 8. No closer than 250 feet away, radially, from another freestanding small cell.
 9. Set-back at least 40 foot from any residential structure.
 10. Comply with Chapter 17, Specifications for Utility Construction Guidelines
 11. All lines, including power and transport facilities, connecting to a new Freestanding pole, shall be placed in duct or conduit that is buried below ground. New overhead wiring to accommodate the antennae will not be permitted
- H. All proposed Freestanding Small Cell Infrastructure shall be designed:
1. to camouflage and conceal to the maximum extent feasible all proposed equipment within proposed freestanding antenna pole(s) as applicable and consolidate all equipment within approved singular enclosures, and;
 2. to meet the following size limitations of equipment:
 - a. Any new freestanding antenna pole shall be twenty-five (25) feet or less in total height in any existing or planned (i.e. platted) residential neighborhood. Said height limit shall not be as-of-right but shall be the maximum permissible height subject to the verifiable proof-of-technical need information submitted.
 3. so that no signage, banner or advertising is located upon facility.
 4. so that the parent owner of each facility, company pole code identifying information, and emergency telephone number is imprinted/ etched on a metallic plaque not to exceed 4"x6" in size and permanently mounted onto the Freestanding Antenna pole at approximately 4 to 6 feet from ground level so visible to the public and onto any associated ground mounted equipment, in addition to any other signage required by law (e.g. RF ground notification signs). Any applicant must identify the proposed frequency or frequencies to be used by the associated network node(s).
- I. Any application to an existing pole
1. All antenna and all of the antenna's exposed elements and/ or shroud transitions shall be mounted at the top of the proposed pole with the following criteria:
 - a. All of the antenna equipment be enclosed within a single cylindrical antenna shroud, preferably matching the pole shaft diameter.

- b. The antenna shroud shall match pole color, finish, and be as solid as feasible to visually conceal all contents and/ or wiring.
 - c. Once transitioned from the pole shaft, the antenna shroud diameter shall remain consistent.
 - d. The antenna shroud may not exceed a height of five (5) feet.
 2. If the applicant demonstrates that antenna equipment cannot be located as above, a shrouded, externally mounted antenna package may be proposed. This equipment may not:
 - a. Protrude from the outer circumference of the existing structure or pole by more than two (2) feet.
 - b. Exceed a height of five (5) feet, mounted longitudinally to the pole shaft.
 - c. All remaining equipment to be located at the pole including radios not mounted at top of pole, electric meters, grounding equipment, cut-off switches, etc. shall be fully enclosed within a base shroud that:
 1. Is structural to fully support the pole while maximizing equipment volume.
 2. Is cylindrical with a maximum consistent diameter of sixteen (16) inches not including small architectural banding features. This diameter may be increased on a case by case basis to twenty (20) inches if it combines multiple carriers or uses.
 3. Does not exceed a height of six (6) feet from mounting surface.
 4. Matches pole color, finish, and be as solid as feasible to visually conceal and lock all contents and/ or wiring.
 5. Any equipment attached to node support poles must be mounted so that all parts are at least seven (7) feet or higher above adjacent surface grade.
 3. While not preferred, any ground mounted enclosures separate from associated pole, may not be greater than three feet six inches (3'-6") in any dimension, and;
 - i. Proposed elements of pole shall be aesthetically matching and consistent with character and height of adjacent poles and street lights or as otherwise approved and agreed to by the Town.
 - ii. For network nodes or equipment placed on existing poles, the color of the network nodes shall match the existing pole color, such that the network nodes blend with the existing pole.
 - iii. Such related equipment shall have a maximum square footage of ten (10) square feet with a maximum height of two (2) feet, and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.

J. Ordinary Maintenance and Repair

1. A Permit shall not be required for Ordinary Maintenance and Repair. The Provider or other Person performing the Ordinary Maintenance and Repair shall obtain any other permits required by applicable Laws and shall notify the Town in writing at least 7 days before performing the Ordinary Maintenance and Repair.

K. Material Changes

1. The Town may require payment of an additional Permit application fee in the event the Town determines, in its sole discretion, that material changes to an Application after submission amount to a new Application and will materially increase the time and/or costs of the Permit review process. Unless otherwise agreed to in writing by the Town, any material changes to an Application, as determined by the Town in its sole discretion, shall be considered a new application for **purposes of the time limits set forth.**

Sec. 18.5

Construction Standards.

A. Safety

1. In performing any work in or affecting the Public ROW, the Provider, and any agent or contractor of the Provider, shall comply with the provisions of Section 2.3 of this Chapter and all other applicable Laws, including Chapter 17 of the Poolesville Code, Specifications for Utility Construction.

B. Traffic control.

1. Unless otherwise specified in the Permit, the Permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The Permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the Town.

C. Utility Locate

1. Before beginning any excavation in the Public ROW, the Permittee shall comply with Maryland's Miss Utility Law.

D. Compliance with Permit

1. All construction practices and activities shall be in accordance with the Permit and approved final plans and specifications. The Town and its representatives shall be provided access to the work site and such further information as they may require ensuring compliance with such requirements. All work that does not comply with the Permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall be removed at the sole expense of the Permittee. The Town may stop work in order to assure compliance with the provision of this Chapter.
2. In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, including but not limited to, Town, Montgomery County and the State of Maryland.

E. Restoration Requirements.

1. The Provider, or its agent or contractor, shall restore, repair and/or replace any portion of the Public ROW that is damaged or disturbed by the Provider's Communications Facilities, Poles or work in or adjacent to the Public ROW.
 2. If the Provider fails to timely restore, repair or replace the Public ROW as required in this subsection, the Town or its contractor may do so and the Provider shall pay the Town's costs and expenses in completing the restoration, repair or replacement.
- F. Removal, Relocation and Abandonment.
1. Within thirty (30) days following written notice from the Town, the Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Support Structures or Towers within the Public ROW, including relocation of above-ground Communications Facilities underground (consistent with the provisions of this Chapter), whenever the Town has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Town improvement, the operations of the Town in, under or upon the Public ROW, or otherwise is in the public interest. The Provider shall be responsible to the Town for any damages or penalties it may incur as a result of the Provider's failure to remove or relocate Communications Facilities, Poles, Support Structures or Towers as required in this subsection.
 2. The Town retains the right and privilege to cut or move any Communications Facility, Pole, Support Structure or Tower located within the Public ROW of the Town, as the Town may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Town shall notify the Provider and give the Provider an opportunity to move its own facilities prior to cutting or removing the Communications Facility, Pole, Support Structure or Tower. In all cases the Town shall notify the Provider after cutting or removing the Communications Facility, Pole, Support Structure or Tower as promptly as reasonably possible.
 3. A Provider shall notify the Town of abandonment of any Communications Facility, Pole, Support Structure or Tower at the time the decision to abandon is made, however, in no case shall such notification be made later than 30 days prior to abandonment. Following receipt of such notice, the Provider shall remove its Communications Facility, Pole, Support Structure or Tower at the Provider's own expense, unless the Town determines, in its sole discretion, that the Communications Facility, Pole, Support Structure or Tower may be abandoned in place. The Provider shall remain solely responsible and liable for all of its Communications Facilities, Poles, Support Structures and Towers until they are removed from the Public ROW unless the Town agrees in writing to take ownership of the abandoned Communications Facilities, Poles, Support Structures or Towers.
 4. If the Provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its Communications Facilities, Poles, Support Structures or Towers or remove any of its abandoned Communications Facilities, Poles, Support Structures or Towers as required in this subsection, the Town or its contractor may do so and the Provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Town incurs arising from the delay.

G. As-builts and Maps.

1. Provider, at no cost to the Town shall provide maps showing location of equipment in ROW and as-builts after construction;

Sec. 18.6 Violation of this Chapter.

Violation of any of the provisions of this Chapter shall be a Municipal Infraction punishable with a civil penalty of \$150.00 for each violation. Each day that a violation occurs or is permitted to exist by the Applicant or Provider constitutes a separate offense

Sec. 18.7 Effective Date.

This Chapter shall take effect __ (__) days after its passage, approval and publication.