

Chapter 80

WIRELESS TELECOMMUNICATIONS FACILITIES IN RIGHTS-OF-WAYS

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[History: Adopted by the Mayor and Commissioners of the Town of Perryville 06-02-2020 Ord.2020-04 adding Chapter 80 Wireless Telecommunications Facilities in Public Rights-of-Ways, Article 1, General Requirements, Sections 80-1 through 80-13, inclusive, adding Chapter 80 Wireless Telecommunications Facilities in Public Rights-of-Ways, Article II, Design Guidelines, Sections 80-14 through 80-26, inclusive]

Article I. General Requirements

§ 80-1. Scope.

A. In general. This chapter authorizes only the installation of small wireless facilities in the town rights-of-way. Unless exempted, every person who desires to place a small wireless facility in a town right-of-way, including deployment of personal wireless service infrastructure, or to modify an existing small wireless facility, including without limitation for the:

- (1) Collocation of a small wireless facility;
- (2) Attachment of a small wireless facility to a pole owned by an authority;
- (3) Installation of a pole; or
- (4) Modification of a small wireless facility or a pole,

Must obtain a wireless placement permit authorizing the placement or modification.

B. Exemptions. The following are exempted from the requirements of this chapter:

- (1) The placement or modification of wireless telecommunications facilities on supporting structures owned, or under the control of, the town, the use of which is subject to a contract for use of the facility between the town and the entity or entities that own or control the wireless telecommunications facility;
- (2) The placement or modification of wireless telecommunications facilities by the town or by any other agency of the state solely for public safety purposes.
- (3) Modifications to an existing wireless telecommunications facility that makes no material change to the footprint of the facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work activity does not change the visual or audible characteristics of the wireless telecommunications facility. The town, by regulation, may also exempt wireless telecommunications facilities that otherwise are subject to the provisions of this section from the obligation to obtain a permit to install or modify a wireless telecommunications facility where it is determined that because of the physical characteristics of the proposed facilities, and the work associated with them, such a permit is not required to protect the public health, welfare or safety, to maintain the character of a neighborhood or corridor, or to otherwise serve the purposes of this ordinance.
- (4) Installation of a mobile cell facility or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event and not to exceed ten days, provided that installation does not involve excavation, movement or removal of existing facilities, at least 30 days written notification is provided to the town prior to an event, and consent for placement is granted. For purposes of this paragraph the following terms have the meanings indicated:
 - I. “Emergency” means a serious, unexpected, and often dangerous situation requiring immediate action.
 - II. “Event” means a public or social occasion planned for a particular time and place.
- (5) A micro wireless facility strung between two utility poles and provided further that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles.

C. Other applicable requirements. In addition to the wireless telecommunications permit required by this chapter, the placement of a wireless telecommunications facility in the public rights-of-way requires the persons who will own or control those facilities to

obtain the franchises, license agreements and permits required by applicable law, and to comply with applicable law, including, but not limited to, applicable law governing radio frequency (rf) emissions. Nothing in this chapter precludes the town from applying its generally applicable health, safety, and welfare regulations when granting consent for a small wireless facility or wireless support structure in the town's right-of-way.

D. Public use. Except as otherwise provided by Maryland law, any use of a right-of-way authorized pursuant to this chapter is subordinate to the town's use and use by the public.

§ 80-2. Definitions.

Terms used in this article shall have the following meanings:

A. Application: a formal request, including all required and requested documentation and information submitted by an applicant to the town for a wireless placement permit.

B. Applicant: a person filing an application for placement or modification of a wireless telecommunications facility in the rights-of-way.

C. Antenna: an apparatus designed to emit radio frequency (rf) and operate from a fixed location to provide wireless services.

D. Antenna equipment: equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

E. Applicable laws/codes: 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, including any amendments adopted by the town, or otherwise are applicable in the town. The term includes the regulations of the federal communications commission and the occupational safety and health administration as well as any town or Cecil County standards or regulations governing the use of rights-of-way.

F. Base station: base station shall have the same meaning as in 47 c.f.r. section 1.40001.

G. Certificate of completion: a document that is required from and issued by the town confirming that all work described in the application, as approved:

- (1) Was properly permitted, including, without limitation, all required permits for building, electrical work, street or curb cutting, and excavation;
- (2) Was done in compliance with and fulfillment of all conditions of all permits, including all stated deadlines;
- (3) Was fully constructed and/or placed as approved and permitted; and

- (4) Was finally inspected by the town, and was approved by the town after the final inspection.

H. **Collocate:** to install or mount a small wireless facility in the public right-of-way 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.

I. **Make-ready work:** work that an authority reasonably determines to be required to accommodate a wireless infrastructure provider’s installation under this chapter and to comply with all applicable standards. The work may include, but is not limited to, repair, rearrangement, replacement and construction of pole; inspections; engineering work and certification; permitting work; tree trimming (other than tree trimming performed for normal maintenance purposes); site preparation; and electrical power configuration. The term does not include a wireless infrastructure provider’s routine maintenance.

J. **Right-of-way:** the term right-of-way includes any portion of any street, road or public way which the town has the responsibility to maintain or manage.

K. **Micro wireless facility:** a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

L. **Small wireless facility:** a small wireless facility is a wireless telecommunications facility. Consistent with code of federal regulations, subpart u, part 1 of title 47, “state and local government regulation of the placement, construction, and modification of personal wireless service facilities”, a facility that meets each of the following conditions:

- (1) The structure on which antenna facilities are mounted:

- I. Is 50 feet or less in height, or
- II. Is no more than 10 percent taller than other adjacent structures, or
- III. Is not extended to a height of more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

- (2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume; and

- (3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and

- (4) The facility does not require antenna structure registration;

- (5) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law

M. **Support structure:** any structure capable of supporting a base station.

N. Tower: 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. This definition does not include utility poles.

O. Utility pole: a structure in the right-of-way designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

P. Wireless permit: a permit issued pursuant to this chapter and authorizing the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the rights-of-way; and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.

Q. Wireless service provider. An entity that provides wireless services to end users.

R. Wireless infrastructure provider: a person that owns, controls, operates or manages a wireless telecommunication facility or portion thereof within the right-of-way.

S. Wireless regulations: those regulations adopted to implement the provisions of this article.

T. Wireless telecommunications facility, or facility: equipment at a fixed location that enables wireless communications between user equipment and a communications network including without limitation radio transceivers, antennas, base station, underground wiring, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

§ 80-3. General Standards for Wireless Telecommunications Facilities in Rights-of-Ways.

A. Generally. Wireless telecommunications facilities shall meet the minimum requirements set forth in this chapter and any wireless regulations approved by the board of commissioners, in addition to the requirements of any other applicable law.

B. Regulations. The wireless regulations and administrative decisions on applications for placement of wireless telecommunications facilities in the rights-of-way or on town property shall, at a minimum, ensure that the requirements of this section are satisfied, unless it is determined that applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this chapter and any town wireless regulations may be waived, but only to the minimum extent required to avoid the prohibition.

C. Standards. Wireless telecommunications facilities shall be installed and modified in a manner that:

- (1) Minimizes risks to public safety, avoids placement of above ground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights-of-way, maximizes use of existing structures and poles, avoids placement in residential areas when commercial areas are reasonably available, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;
- (2) Ensures that installations are subject to periodic review to minimize the intrusion on the rights-of-way;
- (3) Unless approved by the town, any wireless telecommunications facility must be located no closer than:
 - I. Two (2) feet from any curb, sidewalk, or other improvement within the right-of-way; and
 - II. Five (5) feet from any driveway apron; and

Be otherwise located to avoid interference with pedestrian and motorist sightlines and use.

- (4) Ensures that the town bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the legal uses of the public rights of way or public assets by others, or hinder the ability of the town or other government agencies to improve, modify, relocate, abandon or vacate the public rights-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation or abandonment of facilities in the rights-of-way.
- (5) Ensures that location of facilities on existing poles or structures is within the tolerance of those poles or structures.

D. Concealment. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuring compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required under applicable law:

- (1) Antennas located at the top of support structures shall be incorporated into the structure, or placed within shrouds of a size such that the antenna appears to be part of the support structure.
- (2) Antennas placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impact.

- (3) Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on a support structure, located to avoid interfering with, or creating any hazard to, any other use of the public rights-of-way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed.
- (4) Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.
- (5) Ground-mounted equipment associated with a wireless telecommunications facility shall be permitted only where consistent with the portion of the corridor in which it is to be placed, and may be required to be underground, located in alleys or otherwise shielded. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic.
- (6) No permit shall be issued or effective unless it is shown that the wireless telecommunications facility will comply with federal communication commission ("fcc") regulations governing radio frequency ("rf") emissions. Every wireless facility shall at all times comply with applicable fcc regulations governing rf emissions, and failure to comply therewith shall be treated as a material violation of the terms of any permit or lease.
- (7) No towers shall be permitted in the public rights-of-way, and no wireless telecommunications facilities shall be permitted above-ground in underground areas; provided that the town may permit placements where all elements of the wireless telecommunications facility are concealed and the facility does not appear to a casual observer to be a wireless telecommunications facility.
- (8) No permit shall issue except to wireless service providers with immediate plans for use of the proposed wireless telecommunications facility; or to wireless infrastructure providers with contracts with wireless service providers which require the service provider immediately to use the proposed wireless telecommunications facility.
- (9) Unless appropriately placed, and concealed, so that the size of the facility cannot be increased except with the discretionary approval of the town, no wireless telecommunications facility is permitted in rights-of-way in alleys.

§ 80-4. Application Submission Requirements and Final Inspection.

- A. Submission. Applicant shall submit a paper copy and an electronic copy of any

application, amendments or supplements to an application, or responses to requests for information regarding an application, to the Town Administrator or designee.

B. Content. An application must contain:

- (1) The name of the applicant, its telephone number and contact information, and if the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider that will be using the wireless telecommunications facility;
- (2) A complete description of the proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the wireless telecommunications facility; a pre-construction survey; a proposed schedule for completion, certified by a licensed professional engineer; a certification by a radio frequency engineer that the telecommunications facility will comply with the radio frequency radiation emission standards adopted by the federal communications commission; and a description of the distance to the nearest residential dwelling unit and any contributing historical structure within 500 feet of the facility. Before and after 360 degree photo simulations must be provided. The electronic version of an application must be in a standard format that can be easily uploaded on a web page for review by the public.
- (3) An application for modification of an eligible support structure must contain information sufficient to show that the application qualifies under of 47 c.f.r. section 1.40001. The application must relate to an existing wireless telecommunications facility that has been approved by the town pursuant to this article. Before and after 360 degree photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved structure.
- (4) An application for a permit shall be submitted in the format and manner specified by the Town Administrator. Applications must contain all information required by this section and by any wireless regulations to demonstrate that applicant is entitled to the permit requested.
- (5) Applicant must provide any information upon which it relies in support of a claim that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law. Applicants may not supplement this showing if doing so would prevent town from complying with any deadline for action on an application.
- (6) Proof that notice has been mailed to owners of all property, and the resident manager for any multi-family dwelling unit that includes ten (10) or more units, within 300 feet of the proposed wireless telecommunications facility.

(7) A copy of any pole or structure attachment agreement must be provided, as well as sufficient information to determine that the installation can be supported by and does not exceed the tolerances of the pole or structure and specifications for each element of the wireless telecommunications facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; a structural report performed by a duly licensed engineer evidencing that the pole, tower or support structure can adequately support the collocation (or that the pole, tower, or support structure will be modified to meet structural requirements) in accordance with applicable codes.

(8) Payment of any required fees.

(9) Before a permit is issued, a concurrent agreement to any required franchise, access or license agreement must be provided.

C. Fees. Applicant must provide an application fee, and shall be required to pay all costs reasonably incurred by the town in reviewing the application, including costs incurred in retaining outside consultants. Applicant shall also pay an access fee. Fees shall be reviewed periodically, and raised or lowered based on costs the town expects to incur.

D. The town may elect to provide public notice of an application and hold a public hearing prior to the approval of an application. If the town elects to hold a public hearing on an application, the applicant shall be represented at the public hearing and be available to answer inquiries about the application.

E. As part of the permit process, the town may require a wireless telecommunications facility to be fully operational within a specified period after the date the last or final permit is issued, unless the town and the applicant agree to extend the period.

F. Waivers. Requests for waivers from any application requirement of subsection b. Of this section shall be made in writing to the Town Administrator or designee. The town administrator or designee may grant a request for waiver if it is demonstrated that good cause beyond the control of the applicant has been shown for the grant of the waiver, the applicant will suffer unwarranted hardship if the waiver is not granted, and, notwithstanding the issuance of a waiver, the town will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought.

G. Processing of applications. For small wireless facilities, personal wireless facilities, as those terms are defined under federal law, and eligible facilities requests, as that term is defined under federal law, applications will be processed in conformity with state, local and federal law, as amended. Currently, the fcc has required that such applications be processed within 60 days of receipt of a completed application for facilities that will be collocated on preexisting structures, and 90 days for new construction.

H. Rejection for incompleteness. Notices of incompleteness shall be provided in

conformity with state, and local and federal law. If such an application is incomplete, it may be rejected by a written order specifying the material omitted from the application, or the town may notify the applicant of the material omitted and provide an opportunity to submit the missing material. The time imposed by federal, state or local law for the processing of an application does not begin to run until an application is complete.

I. Final inspection. Upon completion of the approved work, the applicant must file a statement of the professional opinion by an independent, qualified engineer licensed in the state of Maryland that indicates that the installation, based upon the engineer's actual inspections, in the engineer's opinion and to the best of the engineer's knowledge, meets the requirements of the approved plan documents, this article and other applicable law. Certifications must be signed and sealed by the qualified engineer making the statement. Upon receipt of the statement, and any required town inspection, the work may be accepted and a certificate of completion may be issued by the town.

§ 80-5. Termination of Permit/Breach.

A. For breach. A wireless telecommunications permit may be revoked for failure to comply with the conditions of the permit, franchise, license or applicable law. Upon revocation, the wireless telecommunications facility must be removed within 30 days of written notice; provided that removal of support structure owned by town, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the town. All costs incurred by the town in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless telecommunications facility.

B. For installation without a permit. A wireless telecommunications facility installed without a wireless permit (except for those exempted by this article) must be removed within 30 days of written notice; provided that removal of a support structure owned by the town, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the town. All costs incurred by the town in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless telecommunications facility.

C. Term. A wireless permit, other than a permit issued pursuant to an eligible facilities request, shall be valid for a period of five (5) years. An eligible facilities permit shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. A person holding a wireless telecommunications permit must either remove the wireless telecommunications facility upon expiration (provided that removal of a support structure owned by the town, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the town); or, at least 90 days prior to expiration, must submit an application to renew the permit, which application must demonstrate that the impact of the wireless telecommunications facility cannot be reduced. The wireless telecommunications facility must remain in place until it is acted upon by the town, and any appeals from the town's decision are exhausted.

§ 80-6. Infrastructure owned or controlled by the Town.

The town may negotiate agreements for use of town owned or controlled light standards and traffic signals in the public rights-of-way for placement of wireless telecommunications facilities on those structures. The agreement shall specify the compensation to the town for use of the structures. The person seeking the agreement shall additionally reimburse the town for all costs the town incurs in connection with its review of, and action upon, the person's request for an agreement.

SECTION 80-7. INSURANCE.

A. The town shall require a wireless infrastructure provider to indemnify and hold harmless the town and its officials, officers and employees against any loss, damage, or liability to the extent that it is caused by the negligent or willful act or omission of the wireless infrastructure provider who owns or operates small wireless facilities or poles in the right-of-way, its agents, officers, directors, representatives, employees, affiliates, or subcontractors, or their respective officers, agents, employees, directors, or representatives.

B. During the period in which the facilities of a wireless infrastructure provider are located on or attached to the town's assets or rights-of-way, the town may require a wireless infrastructure provider to:

(1) Carry, at the wireless infrastructure provider's sole cost and expense, the following types of third-party insurance:

- I. Property insurance for its property's replacement cost against all risks;
- II. Workers' compensation insurance, as required by law; and
- III. Commercial general liability insurance with respect to its activities on town improvements or rights-of-way to afford protection with limits not inconsistent with its requirements of other users of town improvements or rights-of-way, including coverage for bodily injury and property damage; and

(2) Include the town as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the town in a commercial general liability policy as reasonably required by the town.

SECTION 80-8. MAKE-READY WORK.

A. The town may provide a wireless infrastructure provider the option of either having the wireless infrastructure provider perform any necessary make-ready work through the use of qualified contractors authorized by the town, or having the town perform any necessary make-ready work at the sole cost of the wireless infrastructure provider.

B. Upon completion of the make-ready work performed by the town at the request of a

wireless infrastructure provider, the wireless infrastructure provider shall reimburse the town for the town's actual and documented cost of the make-ready work.

SECTION 80-9. RIGHT-OF -WAY REPAIR.

A wireless infrastructure provider shall be required to promptly:

- (1) Repair any damage to the public right-of-way or any damages to facilities in the right-of-way directly caused by the activities of the wireless infrastructure provider and return the right-of-way to the right-of-way's condition prior to the damages caused by the wireless infrastructure provider.
- (2) Remove and relocate the permitted small wireless facility and/or wireless support structure at the wireless infrastructure provider's sole expense to accommodate construction of a public improvement project by the town. If the wireless infrastructure provider fails to remove or relocate the small wireless facility and/or wireless support structure or portion thereof as requested by the town within 120 days of the town's notice, then the town shall be entitled to remove the small wireless facility and/or wireless support structure, or portion thereof, at the wireless infrastructure provider's sole cost and expense, without further notice to the wireless infrastructure provider. The wireless infrastructure provider shall, within 30 days following issuance of invoice for the same, reimburse the town for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the small wireless facilities and/or wireless support structure, or portion thereof.
- (3) At its sole cost and expense, promptly disconnect, remove, or relocate the applicable small wireless facility and/or wireless support structure within the time frame and in the manner required by the town if the town reasonably determines that the disconnection, removal, or relocation of any part of a small wireless facility and/or wireless support structure:
 - I. Is necessary to protect the public health, safety, welfare, or town property, or
 - II. The wireless infrastructure provider fails to obtain all applicable licenses, permits, and certifications required by law for its small wireless facility and/or wireless support structure. If the town reasonably determines that there is imminent danger to the public, then the town may immediately disconnect, remove, or relocate the applicable small wireless facility and/or wireless support structure at the wireless infrastructure provider's sole cost and expense.

SECTION 80-10. FACILITIES NO LONGER NEEDED.

- A. A wireless infrastructure provider shall promptly notify the town of a decision to remove from service a wireless telecommunications facility located on a public right-of-way.
- B. A wireless infrastructure provider shall remove a wireless telecommunications facility

that is no longer needed for service and located on a public right-of-way at the sole cost and expense of the wireless infrastructure provider.

C. If the town concludes that a wireless telecommunications facility has been abandoned in place, the town may remove the facility and invoice the wireless infrastructure provider for the actual and documented cost incurred by the town for removal.

D. Until a wireless telecommunications facility that is located on public right-of-way is removed from the public right-of-way, a wireless infrastructure provider shall pay all fees and charges due the town, regardless of whether the facility is operational.

SECTION 80-11. SURETY BONDS.

A. The town may require a surety bond for wireless infrastructure providers.

B. The purpose of a surety bond required under subsection a. of this section shall be to:

- (1) Provide for the removal of abandoned or improperly maintained small wireless facilities, including those that the town requires to be removed to protect public health, safety, or welfare, and restore the rights-of-way; and
- (2) Recoup rates or fees that have not been paid by a wireless infrastructure provider, subject to thirty (30) days prior written notice to the wireless infrastructure provider and the opportunity to pay the rates or fees outstanding.

SECTION 80-12. FEES.

The following enumerations are the current fees and charges payable under this chapter.

- (1) Application fee: wireless telecommunications facilities and related overhead and underground wiring, cable, hoses, pipes and similar facilities:

I.	Up to five facilities	\$500.00
II.	Each additional facility	\$100.00
III.	Each new pole	\$1,000.00
IV.	Actual cost to review applications, if in excess of set fees	

- (2) Access fee: \$270 per small wireless facility per year

SECTION 80-13. VIOLATIONS.

A violation of any provision of this chapter shall constitute a municipal infraction and is subject to a fine of \$100.00. Each day that a violation continues is a separate offense.

ARTICLE II, DESIGN GUIDELINES

SECTION 80-14. PURPOSE.

The purpose of these guidelines is to establish general procedures and standards, consistent with all applicable federal and state laws, for the siting, construction, installation, collocation, modification, relocation, operation and removal of small wireless telecommunications facilities (“facilities”) within the Town of Perryville’s (“town”) rights-of-way. The goals of these guidelines are to:

- A. Provide standards, technical criteria, and details for small wireless telecommunications facilities in the town’s rights-of-way to be uniformly applied to all applicants and owners of small wireless telecommunications facilities or support structures for such facilities;
- B. Enhance the ability of wireless telecommunications carriers to deploy small wireless technology in the town quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from extensive and robust wireless service availability;
- C. Preserve the character of the town’s neighborhoods and corridors, by limiting visual blight;
- D. Ensure that small wireless telecommunications facilities and support structures conform with all applicable health and safety regulations and will blend into their environment to the greatest extent possible; and
- E. Comply with, and not conflict with or preempt, all applicable state and federal laws.

SECTION 80-15. DEFINITIONS.

Definitions for this Article II are those as defined in Article I of this chapter.

SECTION 80-16. REQUIREMENT TO COMPLY.

The provisions of this Article II are supplementary to the requirements of Article 1 of this chapter. Placement, modification, operation, relocation, and removal of small wireless telecommunications and wireless support structures shall comply with Article 1 and all other applicable town, county, state and federal laws. All permits must be in compliance at the time of permit approval and as may be amended from time to time, as necessary.

SECTION 80-17. CONCEALMENT OF FACILITIES AND RELATED EQUIPMENT.

- A. Concealment preference. It is the town’s preference that all facilities, support structures, and related equipment incorporate specific concealment elements to minimize visual impacts, such as:

(1) integrated poles. The use of “smart poles,” or those of a similar type, can be deployed to supplement or replace existing light, street, or other municipal poles to conform to existing infrastructure or to provide enhanced aesthetic value. These poles are intended to blend into the environment and integrate the telecommunications equipment internally.

(2) Street/directional signs. The use of street and/or directional signs, where practical, to conceal certain equipment, can be deployed to supplement or replace existing street or directional signs to conform to existing infrastructure or to provide enhanced aesthetic value.

(3) Equipment enclosures. Equipment enclosures, including electric meters, shall be as small as possible. Ground-mounted equipment concealment shall include, but not be limited to, landscaping, strategic placement in less obtrusive locations and placement within existing or replacement street furniture or other decorative elements.

(4) Landscaping. Landscape screening shall be provided and maintained around ground mounted equipment enclosures. The planting quantity and size should be such that 100% screening is achieved within two years after installation. The Town Administrator may grant an exemption from this landscaping requirement based on the characteristics of the specific location for the equipment enclosure. Tree “topping” or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs, or other landscaping already existing in the right-of-way must be noted in the application and must be approved by the town administrator.

(5) When underground vaults are proposed, they shall be located to minimize disruption to the placement of street trees. Adequate planting depth shall be provided between the top of the vault and the finished grade to allow plants to grow in a healthy condition.

SECTION 80-18. LOCATIONS OF FACILITIES AND RELATED EQUIPMENT.

A. Collocation preference. Whenever an applicant proposes to place a new wireless support structure with a small wireless telecommunications facility within 250 feet from an existing wireless support structure, the wireless infrastructure provider shall either collocate with the existing facility or demonstrate that a collocation is either not technically feasible or space on the existing facility is not practicably available.

B. Most preferable locations. The following locations are preferred when not adjacent to a park, residential area, historic district, or areas subject to enhanced design review.

(1) Industrial areas; and

(2) commercial areas adjacent to highways, except when those areas are subject to enhanced design review.

C. Least preferable locations.

(1) Residential areas;

(2) Parks;

(3) Historic districts; and

(4) Areas subject to enhanced design review.

D. Order of preference for wireless support structures. The following list indicates the order of preference for wireless support structures for small wireless telecommunications facilities.

(1) Existing utility poles. It is the town's preference that facilities be installed on existing utility poles or existing lines between existing poles.

(2) Non-ornamental service poles. If the wireless infrastructure provider cannot practicably obtain the right to use existing utility poles or lines, the town prefers non-ornamental service poles as the next option.

(3) New poles. If the alternatives in paragraphs (1) and (2) have proven to be non-practicable options, the town prefers the installation of a new pole.

(4) Ornamental municipal poles. The use of ornamental municipal street lights and sign poles as wireless support structures is discouraged. These should only be proposed if the alternatives in paragraphs (1), (2) and (3) are not practicable, or when requested by the town based on the proposed location, if the wireless infrastructure provider demonstrates that exemplary design can be achieved through installation of an ornamental pole with integrated antennas that are concealed, to conform to or enhance existing infrastructure.

SECTION 80-19. CONSIDERATION OF ALTERNATE LOCATIONS.

A. The town may propose an alternate wireless support structure and/or location to what the applicant proposed in the application, as follows:

(1) The proposed alternate location for a support structure may be within 100 feet of the proposed location or within a distance that is equivalent to the width of the right of way in or on which the wireless support structure is proposed, whichever is greater; and

(2) If an application proposes to install facilities that conflict with space designated for future public improvements which are documented in an approved plan in place at the time of the application, the application may be denied or an alternate location proposed, unless the wireless infrastructure provider and/or wireless service provider agree as part of the application to relocate or reinstall the wireless support structure in a manner which is consistent with the approved plan at the time the public improvements are installed.

SECTION 80-20. PLACEMENT OF FACILITIES AND RELATED EQUIPMENT.

A. Generally, the wireless infrastructure provider shall construct and maintain facilities, support structures and related equipment in a manner that does not:

- (1) Obstruct, impede, or hinder public travel or safety on rights-of-way;
- (2) Obstruct the legal use of rights-of-way by other utility providers;
- (3) Violate nondiscriminatory applicable codes;

(4) Violate or conflict with the code of the Town of Riverdale park, or other applicable laws; and

(5) Violate the Federal Americans with Disabilities Act or comparable Maryland law.

B. The town desires to improve aesthetics around town and to promote cleanly organized and streamlined facilities using the least intrusive means to provide wireless services to the community, as follows:

(1) Generally, facilities shall match and be consistent with the materials and finish of the municipal poles in the surrounding area adjacent to their location;

(2) In the absence of adjacent municipal poles, support structures shall, at a minimum, match the materials and finish of adjacent utility poles; and

(3) In areas with mixed styles of municipal poles, the highest quality of poles shall be provided.

C. Antennas on existing or replaced utility poles. Antennas associated with collocation on existing or replacement poles must be in compliance with all applicable laws and these guidelines.

D. Service lines. All service lines must be undergrounded whenever practicable to avoid additional overhead lines. For hollow poles, undergrounded cables and wires must transition directly into the pole base without any external junction box. 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 practicable, with a maximum dimension of 4" diameter. Such conduit shall be finished in zinc, aluminum or stainless steel, or colored to match or exceed the quality of existing encasements.

E. Spooled or coiled cables. 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 or cabinet.

F. Ground mounted equipment. Any proposed ground mounted equipment should be placed as follows:

(1) In a manner to minimize any obstruction, impediment, or hindrance to the public travel or safety on the rights-of way;

(2) To maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic and maximize that line of sight at street corners and intersections and minimize hazards at those locations; and

(3) The town may deny a request that negatively impacts vehicular and/or pedestrian safety.

G. Pole mounted equipment. Pole mounted equipment must be installed as follows:

- (1) Equipment must be installed as flush to the pole as possible;
- (2) Equipment attached to metal poles must use stainless steel banding straps, in a color to match the color of the pole;
- (3) Equipment attached to wood poles may be bolted to the pole (through bolting or lag bolts are prohibited) or installed using stainless steel banding straps;
- (4) All equipment shall be located as close together as technically possible and, if practicable, on the same side of the pole;
- (5) All equipment other than the antenna(s), electric meters and disconnect switches must be concealed within an equipment cabinet, which may not extend more than 24 inches from the face of the pole; and
- (6) Equipment cabinets should be mounted as flush to the pole as possible, and must be non-reflective, colored to match the existing pole, if attached to a metal pole, and in the color of stainless steel, brushed aluminum, or brushed nickel if attached to a wood pole.

H. Electric meter. The town strongly encourages the use of flat-rate electric service when it would eliminate the need for a meter. When a meter is necessary, meters shall be the smallest and least visually intrusive electric meter available, and, if permitted by the electric service provider, shall be painted to match the metal pole, or in the color of stainless steel, brushed aluminum, or brushed nickel if attached to a wood pole.

I. Telephone/fiber optic utilities. Cabinets for telephone and/or fiber optic utilities may not extend more than 24 inches from the face of the pole, 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.

SECTION 80-21. UNDERGROUND EQUIPMENT VAULTS.

Undergrounded equipment vaults. Equipment in an environmentally controlled underground vault may be required by the town in some areas where technologically feasible and appropriate for the location.

SECTION 80-22. NEW WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURES.

A. Spacing. The town strongly discourages more than one (1) new wireless telecommunications support structure per block and, except for compelling reasons, will not approve more than one per 250 feet on each side of the street in order to minimize the hazard of poles adjacent to roadways and to minimize visual clutter and distractions to vehicular traffic.

1. Alignment with other poles. The centerline of any new wireless telecommunications support structure must be aligned, as much as possible, with the centerlines of existing poles on the same street segment, but only if the new structure's height does not conflict with overhead utility lines and facilities;
2. General restrictions on new wood poles. In all locations, the town reserves the right to require a metal pole rather than a wood pole based on the built and/or natural environmental character of the proposed location;
3. 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 Maryland, and subject to the town's review and approval;
4. Metal pole material. All metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the town and finished in accordance with these guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements;
5. Metal pole finish. Metal poles must be painted black. The applicant may select a paint or powder coat system in compliance with atsm standards; and
6. Lighting, planters, flags, banners, directional sign brackets. The town may require the applicant to install functional streetlights and/or brackets to hold hanging flower planters, flags and/or banners and directional sign brackets when technically feasible and the town determines that such additions will enhance the overall appearance and usefulness of the proposed facility. The town may utilize the brackets, flags and banners.

B. Exemptions.

- (1) An exemption may be granted if the applicant can demonstrate that the restrictions of subsection a. Have the effect of preventing wireless service to this location.
- (2) If multiple requests are received to install two (2) or more poles that would violate the spacing requirement or to collocate two (2) or more small wireless telecommunications facilities on the same support structure, priority will be given to the first request received that meets these guidelines.

SECTION 80-23. TOWN-OWNED WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURES.

- A. Required load analysis.** Installations on all town-owned poles shall have an industry standard pole load analysis completed, sealed, and signed by a professional engineer licensed and registered in the State of Maryland and submitted to the town with each permit application indicating that the town-owned pole to which the small wireless telecommunications facility will be attached will safely support the load.

B. Installations on sign poles. Installations on sign poles may only occur if the sign pole is fifteen (15) feet or taller, unless the wireless infrastructure provider can demonstrate to the Town Administrator's satisfaction that the facilities can be integrated in a manner which compliments or enhances the area in which the sign pole is to be installed.

SECTION 80-24. UNDERGROUNDING REQUIREMENTS.

The town may deny permit applications, or require an alternate location, to install structures and facilities in the right-of-way or utility easements where utilities have been required to be installed underground. The applicant may request a waiver if the wireless service provider is unable to achieve its service objective using a location in the right-of-way where utilities are not underground or in a utility easement the wireless service provider has the right to access, or in or on other suitable locations or structures made available by the town.

SECTION 80-25. GENERAL PROVISIONS.

A. Tree maintenance. The wireless infrastructure or service provider, its contractors, and agents shall obtain written permission and notify the town, as follows:

- (1) From the town before trimming trees in the right-of-way; and
- (2) From the property owner when on private property.

B. Graffiti abatement. As soon as practicable, but not later than fourteen (14) calendar days from the date of notice, the provider shall remove all graffiti on any of its facilities, equipment or structures. The town may agree to an extension of time if the provider demonstrates the need to order replacement equipment.

C. Minor technical exceptions. The town recognizes that in some circumstances strict compliance with these guidelines may result in undesirable aesthetic outcomes and that minor deviations should be granted when the need for such deviations arises from circumstances outside of the applicant's control.

D. Waivers. In the event that any applicant asserts that strict compliance with any provisions in these guidelines, as applied to a specific proposed facility, would effectively prohibit the establishment of wireless service to a location, the town may grant a limited exemption from strict compliance.

SECTION 80-26. CONFLICTS.

In the event of a conflict between any of the provisions in Articles I and II of this chapter, the provision that is more restrictive or provides greater protection to the town's interests shall prevail.

