

Hearing Report

**City of Philadelphia
Department of Streets Regulations Governing
Communication Antenna Facilities in the Public Right-of-Way
April 9, 2018**

Background

On January 16, 2018, the City's Streets Department filed regulations with the Department of Records entitled "Regulations Governing Communication Antenna Facilities in the Public Right-of-Way" in furtherance of § 9-306 of The Philadelphia Code, (the "Regulations").

The Regulations were adopted to establish permitting requirements for the placement in the public right-of-way of certain telecommunication facilities, as authorized by Section 9-306 of the Code. During the same time as it was engaged in the process of preparation of the regulations, the City has also been engaged in a process, in its proprietary capacity, to establish standardized rules for the allowance of the placement of such facilities on City infrastructure located in the public rights-of-way. The Regulations and this Report do not address the additional terms and conditions for placement of telecommunications facilities on City-owned infrastructure.

Crown Castle and Verizon requested, in writing, a public hearing on the Regulations.

On February 22, 2018, the Streets Department held a public hearing, at One Parkway Bldg, 1515 Arch Street, 18th floor, to provide interested stakeholders with an opportunity to express specific concerns regarding the Regulations.

The City was represented at the hearing by Richard Montanez Deputy Commissioner, Streets Department; Kristin del Rossi, Chief Lighting Engineer, Streets Department, St. Martin Torrence, Legislative Affairs Director, Streets Department; Patrick O'Donnell, ROW Unit Manager, Streets Department; and Michele Sarkos, Deputy City Solicitor, City Solicitor's Office.

Testimony was presented at the hearing by:

- 1) Rory Whelan, Northeast Regional Director of Government Relations, Crown Castle;
- 2) Douglas Smith, Vice President, State Government Affairs, Verizon;
- 3) Kerri Strike Stahler, Area Director for Engineering and Operations, T-Mobile;
- 4) Paul Hartman, Director of Government Relations for Northeast, Mobilite; and

5) Phillip Burtner, representing Pennsylvania Wireless Association, an industry advocacy group.

Written comments (“Comments”) were submitted by:

- 1) Crown Castle- black-line proposed revisions to the Regulations and a letter raising legal issues dated 1/26/18;
- 2) Verizon- black-line proposed revisions to the Regulations and a letter raising legal issues dated 1/26/18;
- 3) Mobilite - comments to Regulations, dated 2/14/18;
- 4) ATT - comments to Regulations submitted to City in January 2018.

The entities that provided testimony and/or Comments will be referred to herein, collectively, as “Interested Parties”

Summary of Testimony and Comments

Apart from specific comments about specific regulatory provisions (addressed further below), the Interested Parties expressed two main concerns at the public hearing and in written comments, namely: 1) the Regulations, if implemented, will impede provision of telecommunication services, including by limiting deployment of 5G technology, to which they object as a matter of policy and as a matter of law; and 2) the regulatory fees established by the Regulations are excessive.

The Interested Parties stated that the City’s design, aesthetic and placement requirements will limit deployment of facilities and thereby prevent the provision of services in violation of the federal Telecommunications Act (“TCA”).

The Interested Parties also stated that the City’s monthly cap on submission of applications will suppress the provision of telecommunication services.

Concerns were also raised about discrimination between Carriers and Providers.

The Interested Parties state that the City's application fees for placing communication antennas in the public right-of-way are too high and unreasonable and, therefore, violate the federal TCA and Pennsylvania law. They contend that the application fees exceed the City's costs of administration, and are impermissible.

Discussion

The City has reviewed the testimony and written materials provided by the Interested Parties.

In drafting the Regulations, the City's goal was to balance the competing rights and needs of all users of the public right-of-way. In light of the Comments and testimony, the City reviewed the design, aesthetic and placement requirements of the Regulations. The City disagrees that the proposed requirements will prevent the provision of telecommunication services. The City does not believe the Regulations will inhibit the provision of services or prohibit the deployment of 5G technologies. In fact, the City believes the Regulations will facilitate the orderly deployment of 5G technology by all interested companies while maintaining public safety, orderly use of the public right-of-way and the historical character and beauty of Philadelphia.

Based on concerns expressed in the Comments and at the hearing, the City will omit language in the Regulations capping the submission of applications to 15 per month. The revised Regulations will not include a limitation on the number of applications submitted each month.

The Regulations do not differentiate, in any substantive way, between Carriers and Providers; a definition of Carriers is included only in connection with information collected on application forms for informational purposes.

The City disagrees that the proposed permit and annual monitoring fees exceed the City costs and are unreasonable in violation of the TCA. The City has reviewed all relevant City costs and has appropriately allocated certain costs to the permitting, inspection and monitoring of wireless infrastructure in the right-of-way. Only these costs have been considered in establishing the permit fee. The City notes that City charges for use of City infrastructure for the placement of communication antenna facilities is not the subject of these regulations.

Black-Line Comments to Regulations

The comments provided by the Interested Parties are grouped together here and addressed collectively:

1. As requested, the City provided a definition of "Associated Facilities."
2. Regulations were revised to provide for "strand-mounted equipment". This equipment will be subject to aesthetic and placement requirements of Regulations.
3. Regarding proposed revisions to Section 4.D., the City will not significantly revise the requirements of Section 4.D, the list of information to be provided in connection with an application to place facilities in a new location. The Department needs this information to effectively determine compliance with the standards set forth in the

regulations, monitor activities in the public ROW for public safety and to balance competing public interests in use of the ROW.

4. With respect to requirements regarding obtaining approval of the infrastructure owner before applying for a permit, it is the intent of the Department to streamline the application process by requiring Providers to first obtain permission of the owner of infrastructure located in the ROW prior to applying to the City for a permit for occupancy of the ROW.

5. Based on stated concerns of Interested Parties, the City revised the Regulations to delete Sections 4.E.12.and 4.F. The City will not require information regarding carriers or require a monthly cap on submission of applications.

6. Regarding Section 9.C, based on stated concerns of Interested Parties, the City has changed the 20-foot height requirement. The new requirement is based on the lower of 20 feet from ground level or the height of the lowest strand attached to the pole. The Regulations also provide for an exception to the requirement based on the Commissioner's assessment of public safety and interference with use of the ROW.

7. Regarding proposed deletion of Section 9.E-J, the City will not omit the requirements in Section 9 E-J. The Department will maintain these standards of approval. The City has demonstrated a reasonable and accommodating approach to allow placements that deviate from the requirements by reviewing on a case-by-case basis. The Department, as the manager of the public ROW, has to balance competing public interests, including public safety and unreasonable interference with the ROW and the standards being promulgated permit the Department to do so.

8. Regarding proposed deletion of Section 19, the City will not omit the requirements in Section 19. The City has a duty to maintain public safety which includes the operation of the City's radio frequency and wireless network. The Department, as the manager of the public ROW, has to balance competing public interests, including public safety and unreasonable interference with the ROW, and the requirements of Section 19 allow the Department to do so.

9. Based on stated concerns of Interested Parties, the City will allow for self-insurance under Section 24, and has eliminated the umbrella insurance requirement. Insurance limits have been adjusted and other minor changes have been incorporated also based on stated concerns of Interested Parties.

10. The "Security" requirements of Section 14 have been deleted and replaced with an assurance requirement associated with responsibilities of the infrastructure owner.

Findings and Conclusions

The TCA and PA law prevent municipalities from prohibiting the provision of telecommunication services. Recognizing the important services provided by telecommunication companies, the City has worked with them for many years to facilitate telecommunication infrastructure development in the City.

The City also has a responsibility to oversee and protect the public right-of-way for all users of the right-of-way, and those who live, work and visit Philadelphia. This responsibility includes ensuring the safety of the public right-of-way and protecting the historical character of the City now, and for future generations. The Regulations are balanced and nuanced to meet these sometimes - competing responsibilities.

The Interested Parties are incorrect in claiming that the City's permit and monitoring fees are excessive or illegal. Nor have they made a convincing argument that any other requirements of the Regulations are inappropriate for maintaining public safety and an environment conducive for all uses of the public right-of-way.

Accordingly, the Department of Streets adopts the Regulations attached hereto as Exhibit "A" as the final Department of Streets Regulations Governing Communication Antenna Facilities in the Public Right-of-Way.

Exhibit "B" hereto shows the changes made from the Regulations as originally filed with the Department of Records.

This Report pertains to written comments and public testimony regarding the City's promulgation of regulations in furtherance of Philadelphia Code § 9-306. License agreements required for attachment to City- owned poles will be consistent with these Regulations. Such agreements, however, will be offered separate and apart from this regulatory process, and responses to stated concerns of Interested Parties to the City's proposed Master License Agreement will be provided at another time.

The City will continue to work with the telecommunications companies and their facilities providers to facilitate the provision of their services and the deployment of 5G technology to enable the City, and the general public, to enjoy the full potential of such technology.

EXHIBIT A

The Philadelphia Department of Streets Regulations Governing Communication Antenna Facilities in the Public Right-of-Way

Section 1. Authority.

These Regulations Governing Communication Antenna Facilities in the public Right-of-Way are promulgated pursuant to Section 5-500 of The Philadelphia Home Rule Charter and Chapter 9-300 of The Philadelphia Code.

Section 2. Definitions.

In these Regulations, the following definitions shall apply.

- A. "Affiliate" means a person who (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.
- B. "Application" means an application filed with the Department of Streets requesting permission to install Communication Antenna Facilities in the public Right-of-Way.
- C. "Associated Facilities" means any equipment that facilitates transmission for a wireless antenna, including, but not limited to coaxial or fiber-optic cable, strand-mounted equipment and regular and backup power supply and other supporting devices installed above the ground, but does not include a pole or structure on which the Communication Antenna Facilities are located.
- D. "Carrier" means a person or entity authorized by the Federal Communication Commission and any other regulatory agency to operate a telecommunication system to provide telecommunications services.
- E. "City-owned Infrastructure" means street light poles, traffic signal devices and similar infrastructure owned by the City and located in the public Right-of-Way.
- F. "Collocate" or "Collocation" means installing or maintaining multiple Communication Antenna Facilities belonging to more than one Provider on a single support structure.
- G. "Commissioner" shall mean Commissioner of the Department of Streets or his or her designee.
- H. "Communication Antenna Facilities" or "Facilities" means equipment necessary or incidental to the distribution of and use of telecommunications services including, but not limited to, antennas,

small cell nodes, distributed antenna systems (DAS) and associated facilities for “personal wireless services,” as that term is defined in 47 U.S.C. § 332(c)(7)(C), and “commercial mobile services,” as that term is defined in 47 U.S.C. § 332(d).

I. “Communication Antenna Facilities Public Right-of-Way Use Permit” (“CAP”) means a permit issued by the Department authorizing Provider to occupy a discreet location of the public Right-of-Way to maintain, install, remove or modify Communication Antennas Facilities.

J. “Department” means the City of Philadelphia’s Department of Streets.

K. “Existing Facilities” means Facilities located in the public Right-of-Way and authorized by a permit issued by the City prior to the effective date of these Regulations.

L. “Guaranteed Pavement Information System” (“GPIS”) means the online permitting system developed for and used by the Department in connection with the Department’s street opening permit process.

M. “Historic building” has the meaning as defined in the Zoning Code, subsection 14-203(147) of The Philadelphia Code.

N. “Master License Agreement” means a license agreement entered into by the City and a Provider setting forth the particular terms and provisions under which the City has granted a Provider the right to make use of City-owned Infrastructure in the public Right-of-Way for installation of Communication Antenna Facilities.

O. “Modification” means any addition to, partial removal of, or alteration of any kind to Communication Antenna Facilities, including routine maintenance or alteration of appearance.

P. “PECO” means the electricity delivery company known as PECO Energy Company, an Exelon Corporation or any successor electricity delivery company.

Q. “Permitted Location” means the portions of the public Right-of-Way in which Provider has received the Department’s approval to construct and install Communication Antenna Facilities pursuant to this Regulation and for which a CAP has been obtained from the Department.

R. “Provider” means a corporation, company, association, firm, partnership, person or entity that owns, operates or manages any facilities used to provide telecommunications service for hire, sale, or resale to the general public. “Provider” includes Affiliate(s) and/or the legal successor(s) to any such corporation, company, association, firm, partnership, person or entity.

S. “Public Right-of-Way” or “public ROW” means the Right-of-Way as defined in Chapter 11-700

of The Philadelphia Code.

T. "Routine Maintenance" means an in-kind Modification of a component of Communication Antenna Facilities or other similar de minimis changes.

U. "Street Occupancy Permit" means a permit required under The Philadelphia Code and/or Department Regulations and issued by the Department authorizing the temporary (partial or full) closure of the public ROW, including the roadway and/or footway, for the temporary placement of equipment necessary to perform work.

V. "Street Opening Permit" means the permit required under the Philadelphia Code and/or Department Regulations and issued by the Department to authorize a party to open the street or excavate within the public ROW.

W. "Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes over-the-air transmission of broadcast television or broadcast radio signals.

X. "Utility Pole" means a pole or vertical structure owned by PECO or another utility company that is located in the public ROW pursuant to State law authorization or City franchise agreement to support electric utility or wireline Communication Antenna Facilities. Utility Poles as defined herein shall not be considered "towers" or "tower structures" as defined in Section 14-601(4)(o)(.2) of the City Code.

Section 3. Communication Antenna Facilities Public Right-of-Way Permit.

No Provider or other person shall maintain, install, modify, replace or remove any Communication Antenna Facilities on any pole or other structure located in the public ROW without a CAP.

Section 4. Application for Communication Antenna Facilities Public ROW Permit (CAP)

A. An Application for a CAP shall be filed with the Department using the City's on-line portal. A separate Application must be filed for each requested location.

B. Applications with respect to all Communication Antenna Facilities, whether existing, new, modified or replaced, shall include:

1. The name of the applicant, including all Affiliates of applicant;
2. Applicant contact information including address, telephone number and email address;
3. A listing of all Provider's Communication Antenna Facilities (existing & proposed);
4. Identification of the pole location using the City's map and identification system in the on-line system, which shall include identification of whether the pole is City-owned or utility-owned; and
5. Information regarding whether the applicant would be willing to Collocate.

C. An Application in connection with Existing Facilities shall be submitted on the form attached to these Regulations as Exhibit "B," which form may be changed from time to time, and shall in addition to the information requested on the form also include:

1. Approval documentation from the Department for location of the Existing Facilities in the public ROW;
2. Documentation of permission from the pole owner for installation and maintenance of the Existing Facilities;
3. As-built engineering plans for the Existing Facilities;
4. Photos of Existing Facilities as attached to the Utility Pole or City-owned Infrastructure;
5. Proof of Insurance, as required pursuant to these Regulations; and
6. Agreement to comply with the terms of these Regulations.

D. An Application to install Facilities in a new location, to modify Existing Facilities (except as provided in subsection E. below) or to replace or remove Facilities shall be submitted on the form attached to these Regulations as Exhibit "A," which form may be changed from time to time, and shall in addition to the information requested on the form also include:

1. Information to establish that Provider has all other governmental approvals and permits necessary to construct and operate the Communication Antenna Facilities;
2. Proof of Insurance, as required pursuant to these Regulations;
3. List components of the Communication Antenna Facilities (in tabular format). A sample form is attached as Exhibit "C" to these Regulations;
4. Map showing the proposed location of the Facilities with identification of any park, school or Historic building within 300 feet of the proposed location;
5. Representative drawings and pictures of the Communication Antenna Facilities as they will look when installed, including the immediate surrounding area. Design drawings shall also

- include plans for the design and concealment of Communication Antenna Facilities, and portions thereof, if applicable;
6. Engineering and construction plans, design drawings and photos of all Communication Antenna Facilities;
 7. Proposal for collocation, if collocation is requested;
 8. Identification of proposed location of connection to electrical supply or of any fiber connection required, including the identification of any planned interconnection with the Facilities of any other Providers;
 9. Written confirmation of agreement between Provider and utility owner that Provider has authority to attach to Utility Pole;
 10. RF Emissions Report and Noise Report confirming that all Communication Antenna Facilities, and associated equipment, meet all applicable legal requirements;
 11. Structural calculations, signed by a Professional Engineer, licensed in the Commonwealth of Pennsylvania, showing that the structure can safely tolerate the weight loads of proposed Communication Antenna Facilities;
 12. Agreement to comply with the terms of these Regulations.

E. An Application regarding a Modification that involves only Routine Maintenance or a modification of appearance shall include the information required under subsection B, paragraphs 1, 2 and 4 and information identifying the Modification to be made. A new design drawing shall be submitted if changes are made that are not reflected on the originally submitted drawing.

Section 5. Completeness Review

- A. The Department shall review an application for completeness and will notify the Provider in writing if additional or missing information is required. The notice shall identify any information that must be submitted to the Department to make the Application complete.
- B. Upon applicant's subsequent submission, the Department shall notify the applicant if the Application remains incomplete and the Department shall identify any information that must be submitted to make the Application complete.
- C. If missing or additional information is not submitted to the Department within thirty (30) days of a written notice requesting additional information, the Department shall provide applicant with written notice that its Application has been deemed withdrawn.

D. The Department will provide applicant with written notice of a completed Application and will invoice applicant the Application Review Fee, in accordance with Section 8. Except as provided with respect to Applications regarding Existing Facilities, full payment of the Application Review Fee is required before the Department will proceed with its determination regarding issuance of the CAP.

Section 6. Issuance/Denial of CAP

A. The Department, shall issue a written determination granting or denying the application. If the application is denied, the written determination shall include the reason(s) for denial.

B. Upon determination that an application for Existing Facilities is complete, the Department shall grant the CAP for up to such time period as the applicant has demonstrated authorization to occupy the pole, but in no event for longer than 10 years. Modification or removal of Existing Facilities requires filing a new Application for a CAP.

C. The decision to grant or deny a CAP regarding new Facilities or a modification or replacement of Facilities, shall be based upon the following standards:

1. Whether the Provider has received all requisite licenses, certificates, and authorizations from the Federal Communications Commission, the Pennsylvania Public Utilities Commission and any other federal or state agency with jurisdiction over the activities proposed by the Provider;
 2. Compliance with the City's Development Standards set forth in Section 9;
 3. Whether the proposed Communication Antenna Facilities will unreasonably interfere with the public ROW, including whether the proposal negatively impacts the aesthetics of the public ROW to an unreasonable degree;
 4. The damage or disruption, if any, to public or private facilities, improvements, service, travel or landscaping if the CAP is granted;
 5. Whether the proposal presents an unreasonable risk to public health, safety or welfare;
 6. Whether the Provider has permission from the owner of the Utility Pole;
 7. Whether the Provider has an uncured default under: i) any prior CAP; ii) these Regulations or iii) a Master License Agreement between City and Provider; and
 8. Whether the requested site has already been approved as a Permitted Location.
- D. Unless otherwise specified in a CAP, a CAP shall provide an authorization for twenty (20) years.

Section 7. Approval Rights

- A. No authorization granted under these Regulations shall confer any exclusive right, privilege, license or permit to occupy or use the public ROW for delivery of personal wireless services or commercial mobile services or for any other purposes.
- B. The City specifically reserves the right to install, and permit others to install Facilities in the public ROW. The City shall not be liable to Provider for any damage caused by third parties permitted to install Facilities or otherwise authorized to utilize the public ROW.
- C. No authorization granted under these Regulations shall convey any right, title or interest in the public ROW, but shall be deemed an authorization only to use and occupy the public ROW for the limited purposes and term stated in the authorization.
- D. Authorization granted under these Regulations is subject to the existing uses, as well as, the prior and continuing right of the City to use the public ROW for municipal and public purposes.

Section 8. Fees

- A. The fee for a CAP Application review is \$400 per Application. The fee is waived for initial Applications in connection with Existing Facilities and Applications in connection with a Modification involving solely Routine Maintenance or a modification of appearance.
- B. The program fee for inspection of installations and administration of the Facilities program is \$50 per year per CAP. No program fee shall be charged in connection a CAP during the first calendar year of its issuance.
- C. Provider shall, within thirty (30) days after written demand, reimburse the City for any and all costs the City reasonably incurs in response to any emergency involving Provider's Communication Antenna Facilities.

Section 9. Development Standards

All new and modified Facilities shall be subject to the following standards:

- A. The dimensions of the Facilities shall not exceed 6 feet in height, 2 feet in width, and 2 feet in depth, unless an exception is authorized by the Commissioner based on a determination that larger dimensions will not unreasonably interfere with the public ROW.
- B. Facilities shall not exceed 24 cubic feet per facility. No more than 48 cubic feet of Facilities are permitted on a single pole, unless an exception is authorized by the Commissioner based on a determination that additional Facilities will not unreasonably interfere with the public ROW.

C. Facilities shall be installed above the surface of the public ROW at a minimum elevation which is the lower of 20 feet or the lowest pole-supported strand based on a review by the Chief Streets Lighting Engineer, or his/her designee. An exception to this height requirement may be granted on a case-to-case basis based on the Commissioner's determination that a lower height will not unreasonably interfere with the public ROW. Installation or placement of Facilities, or any portion thereof, on the surface of the public ROW is prohibited.

D. Facilities shall not extend more than 3 feet as measured from the edge of the vertical structure of the Utility Pole.

E. Except for permitted Collocation, no Facilities shall be within 300 feet of other permitted Facilities, per block face, unless an exception is authorized by the Commissioner based on a determination that Facilities within such proximity will not unreasonably interfere with the public ROW.

F. No more than two CAPs shall be granted at an intersection of streets unless an exception is authorized by the Commissioner based on a determination that more than two sets of Facilities at a particular intersection will not unreasonably interfere with the public ROW.

G. Installation of Communication Antenna Facilities within 300 feet of the boundary line of a City Park is prohibited unless approved, in writing, by the Department of Parks and Recreation, based on a determination that the installation will not negatively impact on Park use.

H. Installation of Communication Antenna Facilities on any part of a bridge, overpass, or tunnel within the city, or a structure located on a bridge, overpass or tunnel is prohibited.

I. Installation of Communication Antenna Facilities on a structure located in a street or portion of the public ROW that is 15 feet or less in width and that is adjacent to primarily residential properties is prohibited, unless, an exception is authorized by the Commissioner based on a determination that such a location will not unreasonably interfere with the public ROW.

J. Facilities shall be enclosed in an equipment box or other concealing unit that may include ventilation openings.

K. Facilities shall, at a minimum, display the following in an area on the equipment box or other concealing unit in a manner visible to the public:

- i. Company Name
- ii. Company Node ID
- iii. Location
- iv. Streets Department CAP Authorization Number
- v. Streets Department CAP Date

- vi. Emergency telephone contact information
- L. Displays or signs shall not exceed 4" x 6", unless otherwise required by law or the Department.
- M. Placement of advertising on Facilities or in the public ROW is prohibited.
- N. Facilities must be connected to the electrical grid and may not be powered by a generator for primary power or for back-up power except as deemed necessary by the Commissioner to maintain public safety.
- O. Cables and wires must be located inside the interior of all non-wooden poles. External cables and wires for facilities on wooden poles shall be sheathed or enclosed in a conduit so that wires are protected and are visually minimized.
- P. Installation of aerial wires is permitted only for connecting the Facilities to wires or junction boxes on the Utility Pole to which the Facilities are attached.
- Q. Underground junction boxes in the public ROW shall be similar in size to the City's "standard" junction box. A junction box must be rated "tier 22", or approved equal, to sustain live loads without damage. The junction box cover must be labeled with the company name outside. All interior wires must be labeled, kept in good condition and replaced, if faded or missing. Junction box dimensions and placement locations are subject to Department approval.
- R. Facilities shall comply with the federal radio frequency (RF) emissions standards set forth in Federal Communications Commission OET Bulletin 65 (as may be amended).

Section 10. Compliance with Other Laws

Compliance with all applicable City, State, and federal statutes and regulations is mandatory while any CAP is in effect.

Section 11. Master License Agreement.

No authorization to attach to City-owned Infrastructure shall be deemed to have been granted upon issuance of a CAP unless the Provider and the City have executed a Master License Agreement.

Section 12. Inventory and Accounting

- A. Each Provider shall maintain a list of the locations of its Communication Antenna Facilities located in the public ROW while any CAP is in effect and shall provide the Department with an accounting of its current inventory each year on the first business day in January.

Section 13. Renewal of CAP

A Provider that desires to renew an expiring CAP shall, not more than one hundred eighty (180) days nor less than ninety (90) days before expiration of the CAP, file an application with the Department pursuant to the requirements of these Regulations.

Section 14. Provider Assurance

Provider must confirm, in writing, that the owner of the Utility Pole agrees to remove Provider's Facilities in the event Provider fails to remove its Facilities upon the City's determination of a violation under these Regulations and receipt of notice to remove.

Section 15. Street Occupancy and Opening Permits and Deadlines for Installation; Construction and Restoration Standards

- A. Upon issuance of a CAP, the Provider may apply for a Street Occupancy Permit, for occupancy of the public ROW for installation, modification or removal of Facilities, or a Street Opening Permit, as may be required for associated electrical or fiber underground conduit, as may be necessary for installation of the Facilities.
- B. Any required Street Occupancy Permit or Street Opening Permit shall be applied for within ninety (90) days after the Department issues a CAP.
- C. Installation of authorized Communication Antenna Facilities shall be completed within one-hundred and eighty (180) days from the date of issuance of the CAP, unless an extension is granted by the Department based on a showing of good cause.
- D. The Department may rescind a CAP based on failure to meet a deadline set forth in this Section.
- E. Communication Antenna Facilities shall be installed in conformance with plans submitted in connection with issuance of the CAP. Installation, maintenance, repair and removal of underground components of Communication Antenna Facilities shall be accomplished without cost or expense to the City. If components include underground communication cable, the installation, repair, removal shall be in accordance with all applicable requirements of the Philadelphia Code and relevant City Regulations. All work in the public ROW shall be accomplished in such manner as not to endanger persons or property or unreasonably obstruct access to, travel upon or other use of the public ROW.
- F. Prior to beginning any work in the public ROW, Provider shall comply with the provisions of the Pennsylvania One Call utility locator service at least forty-eight (48) hours in advance. Provider has the responsibility to protect and support the various utility facilities of other entities during Provider's work.

G. Provider shall, at its own cost, after the installation, removal or relocation of its Communication Antenna Facilities, repair and return the public ROW and any impacted private property to a safe and no worse condition than at the start of work.

H. Provider shall be responsible for any damage to public ROW, existing utilities, curbs and sidewalks due to its installation, maintenance, repair or removal of its Communication Antenna Facilities and shall repair, replace and restore, in-kind, any such damage at its sole cost and expense, in accordance with all applicable City requirements.

Section 16. Removal or Power Down of Communication Antenna Facilities

A. Department may require Provider, at Provider's sole expense, to modify, remove or power down permitted Facilities: (a) to accommodate a governmental or municipal project; (b) for the construction, repair, relocation, or maintenance of a public improvement in, on, under or about the public ROW; (c) to protect the public health and safety or otherwise serve the public interest; or (d) because of Interference, as set forth in Section 19.

B. The Department will provide written notice to Provider as soon as reasonably practical, of the requirement to remove, modify or power down, which requirement shall be completed within such time as the Department may reasonably direct.

C. If, after delivery of written notice and a reasonable opportunity to respond, Provider fails or refuses to comply with a written notice to follow such a requirement, the Department shall have the authority to remove, modify or power down the Facilities at the sole cost of Provider. Provider shall be responsible for, and liable to, the City for any and all costs associated with such action.

D. If Provider intends to remove or relocate any of its Communication Antenna Facilities in the public ROW, it shall give the Department not less than ten (10) days written notice of its intent to do so. Before proceeding with removal or relocation work, Provider shall obtain such additional permits as may be required by the Department and adhere to all applicable Department Regulations.

Section 17. Non-Use of Communication Antenna Facilities

A. No later than thirty (30) days prior to the proposed termination of use of any permitted Communication Antenna Facilities, Provider shall submit to the Department written notification identifying the Communication Antenna Facilities and the date of the proposed termination of use.

B. Provider shall remain responsible for Facilities which Provider stops utilizing until such time as the Facilities are removed and the public ROW repaired under the requirements of these Regulations.

C. The City shall not be deemed the owner or responsible party for any property owned, or used and/or abandoned in place by Provider.

D. Provider's continuous abandonment of permitted Communication Antenna Facilities within the public ROW, and failure to respond to Department's written notice to remove or modify the same will result in removal, at Provider's sole cost, of such Communication Antenna Facilities.

Section 18. Requirements to Maintain Permits

Failure to comply with any of the following requirements may result in revocation of a CAP:

- A. Failure to pay any required fee and failure to cure such arrearage within thirty (30) days after receiving written notice from City;
- B. Failure to maintain Insurance as required in these Regulations;
- C. Failure to maintain any required licenses, permits, or other governmental approvals pertaining to the installation or use of Communication Antenna Facilities;
- D. Failure to comply with any other requirements of these Regulations, including the "Development Standards" of Section 9.
- E. Failure to provide Communication Antenna Facilities maintenance assurances if Provider becomes the subject of a voluntary or involuntary bankruptcy, receivership, insolvency or similar proceeding or an assignment is made of any of Provider's property for the benefit of creditors; or
- F. Ongoing harmful interference, as set forth in Section 19 below.

Section 19. Interference

- A. Provider's Communication Antenna Facilities shall not cause harmful interference to the City's radio frequency, wireless network, or communication operations ("City Operations") or Communication Antenna Facilities used by other Providers with a CAP ("Protected Equipment").
- B. In the event of interference with the City's Operations, Provider shall take steps necessary to correct and eliminate such interference within 24 hours of receipt of notice from the Department, or such shorter time as may be required in notice from the City in the event of a threat to public safety. In the event of interference with Protected Equipment, Provider shall take steps necessary to correct and eliminate such interference within 24 hours of receipt of notice from the City. If the interference is not resolved within the required time frame, Provider will power down the Communication Antenna Facilities causing interference, except for intermittent testing coordinated with the Department as part of the remedial process, until the interference is remedied.
- C. Upon Department's request, Provider shall test the Communication Antenna Facilities' radio

frequency and other functions to confirm it does not interfere with the City's current or future operations or Protected Equipment.

Section 20. No Liability

- A. The City shall not be liable to any Provider for any damage caused by other Providers with Communication Antenna Facilities, whether sharing the same structure or otherwise.
- B. The City shall not be liable to any Provider by reason of inconvenience, annoyance or injury to any Communication Antenna Facilities, or activities conducted by Provider therefrom, arising from the necessity of repairing any portion of the public ROW, or from the making of any necessary alteration or improvements, in, or to, any portion of the public ROW, or in, or to, City's fixtures, appurtenances or equipment.

Section 21. Graffiti Abatement

Provider shall remove all graffiti on any of its permitted Communication Antenna Facilities as soon as practical, but not later than fourteen (14) days from the date Provider receives notice thereof. The foregoing shall not relieve the Provider from complying with any City graffiti or visual blight ordinance or regulation.

Section 22. Tree Maintenance

Prior to trimming trees hanging over Communication Antenna Facilities, written permission from the Department and the Department of Parks and Recreation is required. When directed by the Department, tree maintenance shall occur under the supervision and direction of the Department of Parks and Recreation. The City shall not be liable for any damages, injuries, or claims arising from Provider's actions pursuant to this Section.

Section 23. Release and Indemnification

- A. As a condition of its CAP, Provider agrees to and shall release the City, its agents, employees, officers, and legal representatives (collectively the "City") from all liability for injury, death, damage, or loss to persons or property sustained in connection with or incidental to performance under any Department -issued permit related to these Regulations, even if the injury, death, damage, or loss is caused by the City's concurrent negligence. Neither Provider nor City will be liable to the other for any indirect, incidental, special, consequential, or punitive damages, or lost profits for any claim arising out any Department-issued permit.

- B. Provider agrees to and shall defend, indemnify, and hold harmless (collectively "indemnify"

and "indemnification") the City, its agents, employees, officers, and legal representatives (collectively the "City Parties") for all third-party claims, suits, damages, liabilities, fines, and expenses including, without limitation, reasonable attorneys' fees, court costs, and all other defense costs (collectively "Losses") for injury, death, damage, or loss to persons or property sustained in connection with Provider's use or operation of any Communication Antenna Facilities, Utility Pole or City-owned Infrastructure including, without limitation those caused by Provider or its agents', employees', officers', directors', consultants' or subcontractors' actual or alleged negligence or intentional acts or omissions.

C. Provider's indemnification obligations under each CAP will survive for four (4) years after the CAP expires or terminates.

Section 24. Insurance Requirements

A. (i) Provider shall, at its sole cost and expense, procure and maintain and shall ensure any contractor it engages to perform any work, installation and/or maintenance required under these Regulations to procure and maintain, substantially the same insurance with substantially the same limits as that required of Provider, the limits of coverage specified below. All insurance shall be procured from reputable insurers who are acceptable to the City of Philadelphia, and authorized or permitted to do business in the Commonwealth of Pennsylvania. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis. The City of Philadelphia, its officers, employees and agents, shall be included as an additional insured as their interests may appear under these Regulations on the Commercial General Liability and Automobile Liability insurance policies.

(ii) Notwithstanding the forgoing, Provider may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Regulation. In the event Provider elects to self-insure its obligation under these Regulations to include City as an additional insured, the following conditions apply: (i) City shall promptly provide Provider with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Provider with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) City shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Provider; and (iii) City shall fully cooperate with Provider in the defense of the claim, demand, lawsuit, or the like.

1. Workers' Compensation and Employers' Liability

(a) Workers Compensation – Statutory Limits.

(b) Employers Liability:

\$100,000 Each Accident - Bodily Injury by Accident;

\$100,000 Each Employee - Bodily Injury by Disease;

\$500,000 Policy limit - Bodily Injury by Disease;

(c) Other states' insurance including Pennsylvania.

2. Commercial General Liability Insurance

(a) Limit of Liability: \$5,000,000 per occurrence for bodily injury (including death) and property damage liability; \$2,000,000 personal and advertising injury; \$2,000,000 general aggregate for products/ completed operations. The City may require higher limits of liability, if in the City's sole discretion, the potential risks so warrants.

(b) Coverage: Including but not limited to premises, operations, personal injury liability (employee exclusion deleted); employees as additional insureds, cross liability, property damage liability, products and completed operations; explosion, collapse and underground damage (XCU), independent contractors, and blanket contractual liability (including liability for Employee Injury assumed under a Contract) provided by the Standard ISO Policy Form or its equivalent.

3. Commercial Automobile Liability Insurance

(a) Limit of Liability: \$2,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability;

(b) Coverage: Owned, hired and non-owned vehicles (Any Auto).

B. Deductibles: Provider shall be responsible for and pay any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, employees or agents.

C. Waiver of Recovery/Subrogation: Provider waives any claim or right of subrogation to recover against the City, its officers, employees or agents and each of Provider's insurance policies must state that the issuer waives any claim or right of subrogation to recover against the City, its officers, employees or agents.

- D. Primary Insurance: Each policy, except Workers Compensation, shall be primary and non-contributory in regards to any insurance or program of self-insurance maintained by the City.
- E. Liability for Premium: Provider shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.
- F. Certificates of Insurance delivered to the City of Philadelphia, evidencing the required coverage shall be submitted to:

City of Philadelphia
Risk Manager
One Parkway
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

G. The required certificates of Insurance must be provided to the City 10 days prior to start of work or by the effective date of these Regulations. Provider shall submit to the City of Philadelphia's Risk Manager, endorsements evidencing the coverage required in this Section within thirty (30) days from the date of submitting the Certificates of Insurance. The City reserves the right to require Provider to furnish written responses from its authorized insurance carrier representatives to all inquiries made pertaining to the insurance required under these Regulations at any time upon ten (10) days written notice to Provider.

H. The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in these Regulations by the Provider to the City or to limit the Provider's liability under these Regulations to the limits of the policy(ies) of insurance required to be maintained by Provider under these Regulations.

I. All insurance policies shall provide for at least thirty (30) days prior written notice to be given to the City of any cancellation or non-renewal of any required insurance that is not replaced. At least ten (10) business days prior to the expiration of each policy, Provider shall deliver to the City, a certificate of insurance evidencing the replacement policy(ies) to become effective immediately upon the termination of the previous policy(ies). Provider shall, in no event, permit any lapse in the insurance coverage required under these Regulations, and replacement coverage meeting the requirements of this Section shall be in effect prior to the expiration of the policy period.

J. In the event the Provider fails to procure and/or cause such insurance to be maintained, the City shall not be limited in the proof of any damages which the City may claim against Provider or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but the City shall also be entitled to recover

damages for such breach, the uninsured amount of any loss, damages and expenses of suit and costs, including without limitation, reasonable collection fees, suffered or incurred during any period when Provider shall have failed or neglected to provide the insurance as required herein.

Section 25. Effective Date

These Regulations shall be effective immediately.

EXHIBIT A

Application for Communication Antenna Facilities Permit (CAP)

Application for Communication Antenna Facilities Permit & License (CAP+License)

1/9/18 version ~ Subject to change

Applications for Communication Antenna Facilities ("Facilities") in the public Right-of-Way.

Please Note: Submittal of false information will result rejection of the Application and/or rescission of associated CAP / CAP+License.

Please read the following information before proceeding.

- Field Marks with * are required
- An Application submitted by anyone other than the Facilities owner must be accompanied by a certification verifying applicant is an authorized representative of the Facilities owner.
- The specified number of sheets must be accurate or the Application may not be accepted.

(A) Application

* Request location for (Please check all the boxes that apply for the location):		
<input type="checkbox"/> Attachment to Utility Pole	<input type="checkbox"/> Attachment to City-owned Infrastructure	<input type="checkbox"/> Upgrade of Existing Facilities
<input type="checkbox"/> Number of Sheets		

(B) Applicant Information

* Applicant Type	<input type="checkbox"/> Facility / Company personnel	<input type="checkbox"/> Consultant / Authorized Representative
*Applicant Name		
*Mailing Address		
City	State	Zip
* Phone Number	*Email Address	
Engineer of Record (If applicable)		
*Phone Number	*Email Address	
Fax Number	*Emergency Contact Number	

(C) Facilities Owner Information

* Type:	<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation	<input type="checkbox"/> Applicant is Owner
*Entity Name			
Mailing Address			
City	State	Zip	
*Phone Number	*Email Address		
Fax Number	* Emergency Contact Number		

(D) Requested Location

*GIS Coordinates	*City Pole ID #	
*Street Number (provide closest number)		
Address	Zip Code	
*Is requested location within 300 feet of a Historic building?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
*Is requested location within 300 feet of another pole?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
*Is requested location within 300 feet of a school?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
*Is requested location within 300 feet of a hospital / medical facility?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
*Is requested location within 300 feet of an Existing Facility?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

(E) Pole Description

* Pole type	*Name of pole owner	
*Pole dimension (feet)	Height	Circumference

(F) Existing Facilities Attached to the Pole

* Facility Type	<input type="checkbox"/> Carrier	<input type="checkbox"/> Neutral-Host Provider (if selected, complete Section H)	
*Number of Facilities attached to the Pole:			
Dimensions of Proposed Facilities (Antenna)	Height	Width	Depth
Dimensions of Proposed Facilities (Enclosure Box 1)	Height	Width	Depth

Dimensions of Proposed Facilities (Enclosure Box 2)	Height	Width	Depth
Backhaul Type and Provider			
FCC License # (if any)			

(G) Power & Communication Connection(s)

Power connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Power connection type		
Communication connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Communication connection type(s)		
Proposing New Junction box(s)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Number of Junction box(s)		
Dimensions of Junction box # 1	Height	Width
Dimensions of Junction box # 2	Height	Width
		Depth

Permission

Permission for use of Utility Poles
<input type="checkbox"/> If applicant is installing, modifying, or removing Facilities from a Utility Pole, applicant certifies that s/he has permission from the Utility Pole owner. A copy of the agreement or permission from the Utility Pole owner has been provided and will be attached to this Application.
License Agreement for use of City-owned Infrastructure
<input type="checkbox"/> Applicant certifies that s/he has permission from the City to attach to City-owned Infrastructure under the Communication Antenna Facilities Master License Agreement ("Agreement") for the purposes specified therein.

EXHIBIT B

Application for Existing Communication Antenna Facilities Permit (CAP) **Application for Existing Communication Antenna Facilities Permit & License (CAP+License)**

1/9/18 version ~ Subject to change

Applications regarding existing Communication Antenna Facilities ("Existing Facilities") in the public Right-of-Way
Please Note: Submittal of false information will result in rejection of the Application and/or rescission of associated CAP/CAP+License.
Please read the following information before proceeding.

- | |
|---|
| <ul style="list-style-type: none"> • Field Marks with * are required • An Application submitted by anyone other than the Facilities owner must be accompanied by a certification verifying applicant is an authorized representative of the Facilities owner. The specified number of sheets must be accurate or the Application may not be accepted. |
|---|

(A) Application

* Existing Facilities attached to (Please check all the boxes that apply for the location):	
<input type="checkbox"/> Utility Pole	<input type="checkbox"/> City-owned Infrastructure

(B) Applicant Information

* Applicant Type	<input type="checkbox"/> Facility / Company personnel	<input type="checkbox"/> Consultant / Authorized Representative
*Applicant Name		
*Mailing Address		
City	State	Zip
* Phone Number	*Email Address	
*Emergency Contact Person(ECP) (If different than the applicant)		
*ECP Phone Number	*ECP Email Address	

(C) Facilities Owner Information

* Type:	<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation	<input type="checkbox"/> Applicant is the owner
*Entity Name			
Mailing Address			
City	State	Zip	
*Phone Number	*Email Address		
Fax Number			
* Emergency Contact Number			

(D) Pole Location

*GIS /GPS Coordinates: (x):	(y):
*City Pole ID #	*Company's Pole/Node ID #
*Street Number (provide closest house number / closest Intersection)	
Address	Zip Code

(E) Pole Description

* Pole type	*Name of pole owner	
*Pole dimension (feet)	Height	Circumference

(F) Existing Facilities Attached to the Pole

* Facility Type	<input type="checkbox"/> Carrier	<input type="checkbox"/> Neutral-Host Provider (if selected, complete Section H)		
*Number of Facilities attached to the Pole:				
Dimensions of Existing Facilities # 1	Height	Width	Depth	
Dimensions of Existing Facilities # 2	Height	Width	Depth	
Dimensions of Existing Facilities # 3	Height	Width	Depth	
Backhaul Type and Provider				
FCC License # (if any)				

(G) Power & Communication Connection(s)

Power connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Power connection type		
Communication connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Communication connection type(s)		
Existing junction box(s)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Number of junction box(s)		
Dimensions of junction box # 1	Height	Width
Dimensions of junction box # 2	Height	Width
Depth		

***Permission for Existing Facilities** (Applicant must select at least one (1) of the following)

Authorization from the Utility Pole owner for use of Utility Pole(s) located in the public ROW
<input type="checkbox"/> Applicant certifies that s/he has proof of Utility Pole owner's permission for placement of Existing Facilities on the Utility Pole, as specified. A copy of the agreement or permission from the Utility Pole owner has been provided and will be attached to this Application.
Authorization from the City for Existing Facilities located in the public ROW
<input type="checkbox"/> Applicant certifies that s/he has proof of City's permission for placement of Existing Facilities on City-owned Infrastructure, as specified. A copy of the agreement or permission from the City has been provided and will be attached to this Application.

EXHIBIT C

Communication Antenna Facilities and Equipment/Components List

1/9/18 version ~ Subject to change

The following is a list of components for the location specified in this Application:

Component Type	Model / Identification Name	Notes

EXHIBIT B

The Philadelphia Department of Streets Regulations Governing Communication Antenna Facilities in the Public Right-of-Way

Section 1. Authority.

These Regulations Governing Communication Antenna Facilities in the public Right-of-Way are promulgated pursuant to Section 5-500 of The Philadelphia Home Rule Charter and Chapter 9-300 of The Philadelphia Code.

Section 2. Definitions.

In these Regulations, the following definitions shall apply.

- A. "Affiliate" means a person who (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.
- B. "Application" means an application filed with the Department of Streets requesting permission to install Communication Antenna Facilities in the public Right-of-Way.
- C. "Associated Facilities" means any equipment that facilitates transmission for a wireless antenna, including, but not limited to coaxial or fiber-optic cable, strand-mounted equipment and regular and backup power supply and other supporting devices installed above the ground, but does not include a pole or structure on which the Communication Antenna Facilities are located.
- D. "Carrier" means a person or entity authorized by the Federal Communication Commission and any other regulatory agency to operate a telecommunication system made up of large, complex configurations of hardware, interconnected to provide communications services to people spread over large geographic areas to provide telecommunications services.
- E. "City-owned Infrastructure" means street light poles, traffic signal devices and similar infrastructure owned by the City and located in the public Right-of-Way.
- F. "Collocate" or "Collocation" means the mounting, installing or installation of maintaining multiple Communication Antenna Facilities for multiple belonging to more than one Provider use on an existing tower, pole, building or a single support structure..
- G. "Commissioner" shall mean Commissioner of the Department of Streets or his or her designee.

GH. "Communication Antenna Facilities" or "Facilities" means equipment necessary or incidental to the distribution of and use of telecommunications services including, but not limited to, antennas, small cell nodes, distributed antenna systems (DAS) and associated facilities deployed in the public Right-of-Way for "personal wireless services," as that term is defined in 47 U.S.C. § 332(c)(7)(C), and "commercial mobile services," as that term is defined in 47 U.S.C. § 332(d).—Associated facilities include any equipment that facilitates transmission for the wireless antenna, including, but not limited to coaxial or fiber optic cable, and regular and backup power supply and other supporting devices installed above the ground, but does not include a pole or structure on which the

I. "Communication Antenna Facilities are located."

H. "Communication Antenna Facilities public Public Right-of-Way Use Permit" ("CAP") means a permit issued by the Department authorizing Provider to occupy a discreet location of the public Right-of-Way to maintain, install, remove or modify Communication Antennas Facilities.

J. "Department" means the City of Philadelphia's Department of Streets.

K. "Existing Facilities" means Facilities located in the public Right-of-Way and authorized by a permit issued by the City ~~at the time of~~ prior to the effective date of these Regulations.

L. "Guaranteed Pavement Information System" ("GPIS") means the online permitting system developed for and used by the Department in connection with the Department's street opening permit process.

M. "Historic building" has the meaning as defined in the Zoning Code, subsection 14-203(147) of The Philadelphia Code.

N. "Master License Agreement" means a license agreement entered into by the City and a Provider setting forth the particular terms and provisions under which the City has granted a Provider the right to make use of City-owned Infrastructure in the public Right-of-Way for installation of Communication Antenna Facilities.

O. "Modification" means any addition to, partial removal of, or alteration of any kind to Communication Antenna Facilities, including routine maintenance or alteration of appearance.

P. "PECO" means the electricity delivery company known as PECO Energy Company, an Exelon Corporation or any successor electricity delivery company.

Q. "Permitted Location" means the portions of the public Right-of-Way in which Provider has received the Department's approval to construct and install Communication Antenna Facilities

pursuant to this Regulation and for which a CAP has been obtained from the Department.

QR. “Provider” means a corporation, company, association, firm, partnership, person or entity that deploys, installs, owns, operates or maintains Communication Antenna Facilities, manages any facilities used to provide telecommunications service for its own use as a Carrier, hire, sale, or to use as a lessor of space or access resale to a Carrier, the general public. “Provider” includes Affiliate(s) and/or the legal successor(s) to any such corporation, company, association, firm, partnership, person or entity.

RS. “Public Right-of-Way” or “public ROW” means the Right-of-Way as defined in Chapter 11-700 of The Philadelphia Code.

ST. “Routine Maintenance” means an in-kind Modification of a component of Communication Antenna Facilities or other similar de minimis changes.

TU. “Street Occupancy Permit” means a permit required under The Philadelphia Code and/or Department Regulations and issued by the Department authorizing the temporary (partial or full) closure of the public ROW, including the roadway and/or footway, for the temporary placement of equipment necessary to perform work.

UV. “Street Opening Permit” means the permit required under the Philadelphia Code and/or Department Regulations and issued by the Department to authorize a party to open the street or excavate within the public ROW.

VW. “Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes over-the-air transmission of broadcast television or broadcast radio signals.

X. “Utility Pole” means a pole or vertical structure owned by PECO or another utility company that is located in the public ROW pursuant to State law authorization or City franchise agreement to support electric utility or wireline Communication Antenna Facilities. Utility Poles as defined herein shall not be considered “towers” or “tower structures” as defined in Section 14-601(4)(o)(.2) of the City Code.

Section 3. Communication Antenna Facilities Public Right-of-Way Permit.

No Provider or other person shall maintain, install, modify, replace or remove any Communication

Antenna Facilities on any pole or other structure located in the public ROW without a CAP.

Section 4. Application for Communication Antenna Facilities Public ROW Permit (CAP)

A. An Application for a CAP shall be filed with the Department using the City's on-line portal. A separate Application must be filed for each requested location.

B. Applications with respect to all Communication Antenna Facilities, whether existing, new, modified or replaced, shall include:

1. The name of the applicant, including all Affiliates of applicant;
2. Applicant contact information including address, telephone number and email address;
3. A listing of all of the Provider's Communication Antenna Facilities (existing & proposed) ~~installed for Provider's sole use and for shared use. For Facilities installed for shared use, indicate the number of Carriers that use each Facility;~~;
4. Identification of the pole location using the City's map and identification system in the on-line system, which shall include identification of whether the pole is City-owned or utility-owned; and
5. Information regarding whether the applicant would be willing to ~~collocate~~Collocate.

C. An Application in connection with Existing Facilities shall be submitted on the form attached to these Regulations as Exhibit "B," which form may be changed from time to time, and shall in addition to the information requested on the form also include:

1. Approval documentation from the Department for location of the Existing Facilities in the public ROW;
2. Documentation of permission from the pole owner for installation and maintenance of the Existing Facilities;
3. As-built engineering plans for the Existing Facilities;
4. Photos of Existing Facilities as attached to the Utility Pole or City-owned Infrastructure;
5. Proof of Security and Insurance, as required pursuant to these Regulations; and
6. Agreement to comply with the terms of these Regulations.

D. An Application to install Facilities in a new location, to modify Existing Facilities (except as provided in subsection E. below) or to replace or remove Facilities shall be submitted on the form attached to these Regulations as Exhibit "A," which form may be changed from time to time, and shall in addition to the information requested on the form also include:

1. Information to establish that Provider has all other governmental approvals and permits necessary to construct and operate the Communication Antenna Facilities;
2. Proof of Security and Insurance, as required pursuant to these Regulations;
3. List components of the Communication Antenna Facilities (in tabular format). A sample form is attached as Exhibit "C" to these Regulations;
4. Map showing the proposed location of the Facilities with identification of any park, school or Historic building within 300 feet of the proposed location;
5. Representative drawings and pictures of the Communication Antenna Facilities as they will look when installed, including the immediate surrounding area. Design drawings shall also include plans for the design and concealment of Communication Antenna Facilities, and portions thereof, if applicable;
6. Engineering and construction plans, design drawings and photos of all Communication Antenna Facilities;
7. Proposal for collocation, if collocation is requested;
8. Identification of proposed location of connection to electrical supply or of any fiber connection required, including the identification of any planned interconnection with the Facilities of any other Providers;
9. Written confirmation of agreement between Provider and utility owner that Provider has authority to attach to Utility Pole;
10. RF Emissions Report and Noise Report confirming that all Communication Antenna Facilities, and associated equipment, meet all applicable legal requirements;
11. Structural calculations, signed by a Professional Engineer, licensed in the Commonwealth of Pennsylvania, showing that the structure can safely tolerate the weight loads of proposed Communication Antenna Facilities;
12. ~~Identification of any agreement between a Carrier and the Provider for the Carrier's use of Provider's Communication Antenna Facilities, if applicable; and~~
13. Agreement to comply with the terms of these Regulations.

E. An Application regarding a Modification that involves only Routine Maintenance or a modification of appearance shall include the information required under subsection B, paragraphs 1, 2 and 4 and information identifying the Modification to be made. A new design drawing shall be submitted if changes are made that are not reflected on the originally submitted drawing.

~~F. Beginning ninety (90) days after the effective date of these Regulations, no more than fifteen (15) Applications of a particular applicant will be reviewed by the Department within a thirty (30) day period.~~

Section 5. Completeness Review

- A. The Department shall review an application for completeness and will notify the Provider in writing if additional or missing information is required. The notice shall identify any information that must be submitted to the Department to make the Application complete.
- B. Upon applicant's subsequent submission, the Department shall notify the applicant if the Application remains incomplete and the Department shall identify any information that must be submitted to make the Application complete.
- C. If missing or additional information is not submitted to the Department within thirty (30) days of a written notice requesting additional information, the Department shall provide applicant with written notice that its Application has been deemed withdrawn.
- D. The Department will provide applicant with written notice of a completed Application and will invoice applicant the Application Review Fee, in accordance with Section 8. Except as provided with respect to Applications regarding Existing Facilities, full payment of the Application Review Fee is required before the Department will proceed with its determination regarding issuance of the CAP.

Section 6. Issuance/Denial of CAP

- A. The Department, shall issue a written determination granting or denying the application. If the application is denied, the written determination shall include the reason(s) for denial.
- B. Upon determination that an application for Existing Facilities is complete, the Department shall grant the CAP for up to such time period as the applicant has demonstrated authorization to occupy the pole, but in no event for longer than 10 years. Modification or removal of Existing Facilities requires filing a new Application for a CAP.
- C. The decision to grant or deny a CAP regarding new Facilities or a modification or replacement of Facilities, shall be based upon the following standards:
 1. Whether the Provider has received all requisite licenses, certificates, and authorizations from the Federal Communications Commission, the Pennsylvania Public Utilities Commission and any other federal or state agency with jurisdiction over the activities proposed by the Provider;

2. Compliance with the City's Development Standards set forth in Section 9;
3. Whether the proposed Communication Antenna Facilities will unreasonably interfere with the public ROW, including whether the proposal negatively impacts the aesthetics of the public ROW to an unreasonable degree;
4. The damage or disruption, if any, to public or private facilities, improvements, service, travel or landscaping if the CAP is granted;
5. Whether the proposal presents an unreasonable risk to public health, safety or welfare;
6. Whether the Provider has permission from the owner of the Utility Pole;
7. Whether the Provider has an uncured default under: i) any prior CAP; ii) these Regulations, or iii) a Master License Agreement between City and Provider; and
8. Whether the requested site has already been approved as a Permitted Location.

D. Unless otherwise specified in a CAP, a CAP shall provide an authorization for ~~ten (10)~~twenty (20) years.

Section 7. Approval Rights

- A. No authorization granted under these Regulations shall confer any exclusive right, privilege, license or permit to occupy or use the public ROW for delivery of personal wireless services or commercial mobile services or for any other purposes.
- B. The City specifically reserves the right to install, and permit others to install Facilities in the public ROW. The City shall not be liable to Provider for any damage caused by ~~3rd Parties~~third parties permitted to install Facilities or otherwise authorized to utilize the public ROW.
- C. No authorization granted under these Regulations shall convey any right, title or interest in the public ROW, but shall be deemed an authorization only to use and occupy the public ROW for the limited purposes and term stated in the authorization.
- D. Authorization granted under these Regulations is subject to the existing uses, as well as, the prior and continuing right of the City to use the public ROW for municipal and public purposes.

Section 8. Fees

- A. The fee for a CAP Application review is \$400 per Application. The fee is waived for initial Applications in connection with Existing Facilities and Applications in connection with a Modification

involving solely Routine Maintenance or a modification of appearance.

B. The program fee for inspection of installations and administration of the Facilities program is \$50 per year per CAP. No program fee shall be charged in connection a CAP during the first calendar year of its issuance.

C. Provider shall, within thirty (30) days after written demand, reimburse the City for any and all costs the City reasonably incurs in response to any emergency involving Provider's Communication Antenna Facilities.

Section 9. Development Standards

All new and modified Facilities shall be subject to the following standards:

A. The dimensions of the Facilities shall not exceed 6 feet in height, 2 feet in width, and 2 feet in depth, unless an exception is authorized by the Commissioner based on a determination that larger dimensions will not unreasonably interfere with the public ROW.

B. Facilities shall not exceed 24 cubic feet per facility. No more than 48 cubic feet of Facilities are permitted on a single pole, unless an exception is authorized by the Commissioner based on a determination that additional Facilities will not unreasonably interfere with the public ROW.

C. Facilities shall be installed ~~at least 20 feet above the surface of the public ROW, unless an exception at a minimum elevation which is authorized by the Commissioner, the lower of 20 feet or the lowest pole-supported strand based on a review by the Chief Streets Lighting Engineer, or his/her designee.~~ An exception to this height requirement may be granted on a case-to-case basis based on the Commissioner's determination that a lower height will not unreasonably interfere with the public ROW. Installation or placement of Facilities, or any portion thereof, on the surface of the public ROW is prohibited.

D. Facilities shall not extend more than 3 feet as measured from the edge of the vertical structure of the Utility Pole.

E. Except for permitted ~~co~~location~~Collocation~~, no Facilities shall be within 300 feet of other permitted Facilities, per block face, unless an exception is authorized by the Commissioner based on a determination that Facilities within such proximity will not unreasonably interfere with the public ROW.

F. No more than two CAPs shall be granted at an intersection of streets unless an exception is authorized by the Commissioner based on a determination that more than two sets of Facilities at a particular intersection will not unreasonably interfere with the public ROW.

- G. Installation of Communication Antenna Facilities within 300 feet of the boundary line of a City Park is prohibited unless approved, in writing, by the Department of Parks and Recreation, based on a determination that the installation will not negatively impact on Park use.
- H. Installation of Communication Antenna Facilities on any part of a bridge, overpass, or tunnel within the city, or a structure located on a bridge, overpass or tunnel is prohibited.
- I. Installation of Communication Antenna Facilities on a structure located in a street or portion of the public ROW that is 15 feet or less in width and that is adjacent to primarily residential properties is prohibited, unless, an exception is authorized by the Commissioner based on a determination that such a location will not unreasonably interfere with the public ROW.
- J. Facilities shall be enclosed in an equipment box or other concealing unit that may include ventilation openings.
- K. Facilities shall, at a minimum, display the following in an area on the equipment box or other - concealing unit in a manner visible to the public:
- i. Company Name
 - ii. Company Node ID
 - iii. Location
 - iv. Streets Department CAP Authorization Number
 - v. Streets Department CAP Date
 - vi. Emergency telephone contact information
- L. Displays or signs shall not exceed 4" x 6", unless otherwise required by law or the Department.
- M. Placement of advertising on Facilities or in the public ROW is prohibited.
- N. Facilities must be connected to the electrical grid and may not be powered by a generator for primary power or for back-up power. except as deemed necessary by the Commissioner to maintain public safety.
- O. Cables and wires must be located inside the interior of all non-wooden poles. External cables and wires for facilities on wooden poles shall be sheathed or enclosed in a conduit so that wires are protected and are visually minimized.
- P. Installation of aerial wires is permitted only for connecting the Facilities to wires or junction boxes on the Utility Pole to which the Facilities are attached.
- Q. Underground junction boxes in the public ROW shall be similar in size to the City's "standard"

junction box. A junction box must be rated "tier 22", or approved equal, to sustain live loads without damage. The junction box cover must be labeled with the company name outside. All interior wires must be labeled, kept in good condition and replaced, if faded or missing. Junction box dimensions and placement locations are subject to Department approval.

R. Facilities shall comply with the federal radio frequency (RF) emissions standards set forth in Federal Communications Commission OET Bulletin 65 (as may be amended).

Section 10. Compliance with Other Laws

Compliance with all applicable City, State, and federal statutes and regulations is mandatory while any CAP is in effect.

Section 11. Master License Agreement.

No authorization to attach to City-owned Infrastructure shall be deemed to have been granted upon issuance of a CAP unless the Provider and the City have executed a Master License Agreement.

Section 12. Inventory and Accounting

A. ~~Providers~~Each Provider shall maintain a list of the locations of its Communication Antenna Facilities located in the public ROW while any CAP is in effect and shall provide the Department with an accounting of its current inventory each year on the first business day in January.

B. ~~Providers shall provide the Department with an updated list of Carriers using Provider's Facilities in the public ROW for each location every ninety (90) days while any CAP is in effect.~~

Section 13. Renewal of CAP

A Provider that desires to renew an expiring CAP shall, not more than one hundred eighty (180) days nor less than ninety (90) days before expiration of the CAP, file an application with the Department pursuant to the requirements of these Regulations.

Section 14. Security~~Provider Assurance~~

A. ~~"Security" means either a letter of credit, or a bank or cashier's check made payable to the City, or other form of security acceptable to the City for the purpose of protecting the City from the costs and expenses associated with Provider's failure to comply with its obligations in connection with~~

~~a CAP, including but not limited to: (a) the City's restoration of the public ROW based on disturbance caused by the Provider; (b) the City's removal of any of Provider's Communication Antenna Facilities that are abandoned or not properly maintained or pursuant to an Order to remove; or (c) the City's remediation of environmental or other waste caused by the Provider.~~

~~B. Unless otherwise provided in an agreement with the City, the amount of the Security shall be \$1,500 per CAP, up to a maximum of \$200,000 per Provider.~~

~~C. In the event the party issuing the Security cancels or decides not to renew or extend the Security, Provider shall obtain replacement Security within thirty (30) days of the date the Security has been cancelled or non-renewed. If Provider fails to provide the replacement Security within the thirty-day period, the Department may suspend Provider from any further occupancy in the public ROW.~~

~~D. Department shall notify Provider in writing as a precondition to drawing on, seeking payment under, or executing against the Security. In the event that the City draws upon the Security, Provider must replenish the amount of the Security within thirty (30) days of notice of withdrawal.~~

~~E. Absent City action against the Security, or a determination by the City that such action is necessary, the City shall return the Security to Provider within sixty (60) days of the expiration of the associated CAP.~~

Provider must confirm, in writing, that the owner of the Utility Pole agrees to remove Provider's Facilities in the event Provider fails to remove its Facilities upon the City's determination of a violation under these Regulations and receipt of notice to remove.

Section 15. Street Occupancy and Opening Permits and Deadlines for Installation; Construction and Restoration Standards

A. Upon issuance of a CAP, the Provider may apply for a Street Occupancy Permit, for occupancy of the public ROW for installation, modification or removal of Facilities, or a Street Opening Permit, as may be required for associated electrical or fiber underground conduit, as may be necessary for installation of the Facilities.

B. Any required Street Occupancy Permit or Street Opening Permit shall be applied for within ninety (90) days after the Department issues a CAP.

C. Installation of authorized Communication Antenna Facilities shall be completed within one-hundred and eighty (180) days from the date of issuance of the CAP, unless an extension is granted by

the Department based on a showing of good cause.

D. The Department may rescind a CAP based on failure to meet a deadline set forth in this Section.

E. Communication Antenna Facilities shall be installed in conformance with plans submitted in connection with issuance of the CAP. Installation, maintenance, repair and removal of underground components of Communication Antenna Facilities shall be accomplished without cost or expense to the City. If components include underground communication cable, the installation, repair, removal shall be in accordance with all applicable requirements of the Philadelphia Code and relevant City Regulations. All work in the public ROW shall be accomplished in such manner as not to endanger persons or property or unreasonably obstruct access to, travel upon or other use of the public ROW.

F. Prior to beginning any work in the public ROW, Provider shall comply with the provisions of the Pennsylvania One Call utility locator service at least forty-eight (48) hours in advance. Provider has the responsibility to protect and support the various utility facilities of other entities during Provider's work.

G. Provider shall, at its own cost, after the installation, removal or relocation of its Communication Antenna Facilities, repair and return the public ROW and any impacted private property to a safe and no worse condition than at the start of work.

H. Provider shall be responsible for any damage to public ROW, existing utilities, curbs and sidewalks due to its installation, maintenance, repair or removal of its Communication Antenna Facilities and shall repair, replace and restore, in-kind, any such damage at its sole cost and expense, in accordance with all applicable City requirements.

Section 16. Removal or Power Down of Communication Antenna Facilities

A. Department may require Provider, at Provider's sole expense, to modify, remove or power down permitted Facilities: (a) to accommodate a governmental or municipal project; (b) for the construction, repair, relocation, or maintenance of a public improvement in, on, under or about the public ROW; (c) to protect the public health and safety or otherwise serve the public interest; or (d) because of Interference, as set forth in Section 19.

B. The Department will provide written notice to Provider as soon as reasonably practical, of the requirement to remove, modify or power down, which requirement shall be completed within such time as the Department may reasonably direct.

C. If, after delivery of written notice and a reasonable opportunity to respond, Provider fails or refuses to comply with a written notice to follow such a requirement, the Department shall have the authority to remove, modify or power down the Facilities at the sole cost of Provider. Provider shall be responsible for, and liable to, the City for any and all costs associated with such action.

D. If Provider intends to remove or relocate any of its Communication Antenna Facilities in the public ROW, it shall give the Department not less than ten (10) days written notice of its intent to do so. Before proceeding with removal or relocation work, Provider shall obtain such additional permits as may be required by the Department and adhere to all applicable Department Regulations.

Section 17. Non-Use of Communication Antenna Facilities

- A. No later than thirty (30) days prior to the proposed termination of use of any permitted Communication Antenna Facilities, Provider shall submit to the Department written notification identifying the Communication Antenna Facilities and the date of the proposed termination of use.
- B. Provider shall remain responsible for Facilities which Provider stops utilizing until such time as the Facilities are removed and the public ROW repaired under the requirements of these Regulations.
- C. The City shall not be deemed the owner or responsible party for any property owned, or used and/or abandoned in place by Provider.
- D. Provider's continuous abandonment of permitted Communication Antenna Facilities within the public ROW, and failure to respond to Department's written notice to remove or modify the same will result in removal, at Provider's sole cost, of such Communication Antenna Facilities.

Section 18. Requirements to Maintain Permits

Failure to comply with any of the following requirements may result in revocation of a CAP:

- A. Failure to pay any required fee and failure to cure such arrearage within thirty (30) days after receiving written notice from City;
- B. Failure to maintain ~~Security or~~ Insurance as required in these Regulations;
- C. Failure to maintain any required licenses, permits, or other governmental approvals pertaining to the installation or use of Communication Antenna Facilities;
- D. Failure to comply with any other requirements of these Regulations, including the "Development Standards" of Section 9.
- E. Failure to provide Communication Antenna Facilities maintenance assurances if Provider becomes the subject of a voluntary or involuntary bankruptcy, receivership, insolvency or similar proceeding or an assignment is made of any of Provider's property for the benefit of creditors; or
- F. Ongoing harmful interference, as set forth in Section 19 below.

Section 19. Interference

- A. Provider's Communication Antenna Facilities shall not cause harmful interference to the City's radio frequency, wireless network, or communication operations ("City Operations) or Communication Antenna Facilities used by other Providers with a CAP ("Protected Equipment").
- B. In the event of interference with the City's Operations, Provider shall take steps necessary to correct and eliminate such interference within 24 hours of receipt of notice from the Department, or such shorter time as may be required in notice from the City in the event of a threat to public safety. In the event of interference with Protected Equipment, Provide shall take steps necessary to correct and eliminate such interference within 24 hours of receipt of notice from the City. If the interference is not resolved within the required time frame, Provider will power down the Communication Antenna Facilities causing interference, except for intermittent testing coordinated with the Department as part of the remedial process, until the interference is remedied.
- C. Upon Department's request, Provider shall test the Communication Antenna Facilities' radio frequency and other functions to confirm it does not interfere with the City's current or future operations or Protected Equipment.

Section 20. No Liability

- A. The City shall not be liable to any Provider for any damage caused by other Providers with Communication Antenna Facilities, whether sharing the same structure or otherwise.
- B. The City shall not be liable to any Provider by reason of inconvenience, annoyance or injury to any Communication Antenna Facilities, or activities conducted by Provider therefrom, arising from the necessity of repairing any portion of the public ROW, or from the making of any necessary alteration or improvements, in, or to, any portion of the public ROW, or in, or to, City's fixtures, appurtenances or equipment.

Section 21. Graffiti Abatement

Provider shall remove all graffiti on any of its permitted Communication Antenna Facilities as soon as practical, but not later than fourteen (14) days from the date Provider receives notice thereof. The foregoing shall not relieve the Provider from complying with any City graffiti or visual blight ordinance or regulation.

Section 22. Tree Maintenance

Prior to trimming trees hanging over Communication Antenna Facilities, written permission from the Department and the Department of Parks and Recreation is required. When directed by the Department, tree maintenance shall occur under the supervision and direction of the Department of Parks and Recreation. The City shall not be liable for any damages, injuries, or claims arising from Provider's actions pursuant to this Section.

Section 23. Release and Indemnification

A. As a condition of its CAP, Provider agrees to and shall release the City, its agents, employees, officers, and legal representatives (collectively the "City") from all liability for injury, death, damage, or loss to persons or property sustained in connection with or incidental to performance under any Department -issued permit related to these Regulations, even if the injury, death, damage, or loss is caused by the City's concurrent negligence. Neither Provider nor City will be liable to the other for any indirect, incidental, special, consequential, or punitive damages, or lost profits for any claim arising out any Department-issued permit.

B. Provider agrees to and shall defend, indemnify, and hold harmless (collectively "indemnify" and "indemnification") the City, its agents, employees, officers, and legal representatives (collectively the "City Parties") for all third-party claims, suits, damages, liabilities, fines, and expenses including, without limitation, reasonable attorneys' fees, court costs, and all other defense costs (collectively "Losses") for injury, death, damage, or loss to persons or property sustained in connection with Provider's use or operation of any Communication Antenna Facilities, Utility Pole or City-owned Infrastructure including, without limitation those caused by Provider or its agents', employees', officers', directors', consultants' or subcontractors' actual or alleged negligence or intentional acts or omissions.

C. Provider's indemnification obligations under each CAP will survive for four (4) years after the CAP expires or terminates.

Section 24. Insurance Requirements

A. A. (i) Provider shall, at its sole cost and expense, procure and maintain and shall ensure any contractor it engages to perform any work, installation and/or maintenance required under these Regulations to procure and maintain, ~~the types and minimum~~substantially the same insurance with substantially the same limits as that required of Provider, the limits of coverage specified below. All insurance shall be procured from reputable insurers who are acceptable to the City of Philadelphia, - and authorized or permitted to do business in the Commonwealth of Pennsylvania. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis. The City of

Philadelphia, its officers, employees and agents, shall be named~~and~~included as an additional insured as their interests may appear under these Regulations on the Commercial General Liability, and Automobile Liability and Umbrella Liability insurance policies.

(ii) Notwithstanding the forgoing, Provider may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Regulation. In the event Provider elects to self-insure its obligation under these Regulations to include City as an additional insured, the following conditions apply: (i) City shall promptly provide Provider with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Provider with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) City shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Provider; and (iii) City shall fully cooperate with Provider in the defense of the claim, demand, lawsuit, or the like.

1. Workers' Compensation and Employers' Liability

(a) Workers Compensation – Statutory Limits.

(b) Employers Liability:

\$100,000 Each Accident - Bodily Injury by Accident;

CO
CO
CH
CH
CH
CH

\$100,000 Each Employee - Bodily Injury by Disease;

CO
CO
CH
CH
CH
CH

\$500,000 Policy limit - Bodily Injury by Disease;

CO
CO
CH
CH
CH
CH

(c) Other states' insurance including Pennsylvania.

CO
CO
CH
CH
CH
CH

2. Commercial General Liability Insurance

(a) Limit of Liability: \$15,000,000 per occurrence for bodily injury (including death) and property damage liability; \$12,000,000 personal and advertising injury; \$2,000,000 general aggregate for products-and/ completed operations. The City may require higher limits of liability, if in the City's sole discretion, the potential risks so warrants.

(b) Coverage: Including but not limited to premises, operations, personal injury liability (employee exclusion deleted); employees as additional insureds, cross liability, broad form property damage (including completed operations and loss of use) liability, products and completed operations; explosion, collapse and underground damage

(XCU), independent contractors, and blanket contractual liability (including liability for Employee Injury assumed under a Contract) provided by the Standard ISO Policy Form CG-00-01 or its equivalent.

3. Commercial Automobile Liability Insurance

- (a) Limit of Liability: \$12,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability;
- (b) Coverage: Owned, hired and non-owned vehicles (Any Auto).

4. Umbrella Liability Insurance

- (a) ~~Limits of Liability totaling \$5,000,000 per occurrence when combined with insurance required under (1), (2) and (3) above.~~

B. Deductibles: Provider shall be responsible for and pay any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, employees or agents.

C. Waiver of Recovery/Subrogation: Provider waives any claim or right of subrogation to recover against the City, its officers, employees or agents and each of Provider's insurance policies must state that the issuer waives any claim or right of subrogation to recover against the City, its officers, employees or agents.

D. Primary Insurance: Each policy, except Workers Compensation, shall be primary and non-contributory in regards to any insurance or program of self-insurance maintained by the City.

E. Liability for Premium: Provider shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.

F. Certificates of Insurance delivered to the City of Philadelphia, evidencing the required coverage shall be submitted to:

City of Philadelphia
Risk Manager
One Parkway
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

G. The required ~~Certificates~~ certificates of Insurance must be submitted ~~provided~~ to the City's Risk

~~Manager at least (City 10) ten days prior to the start of Workwork or upon execution by the effective date of this Agreement, whichever is first. these Regulations. Provider shall cause its insurance company to submit to the City of Philadelphia's Risk Manager, endorsements evidencing the coverage required in this section~~Section within thirty (30) days from the date of submitting the Certificates of Insurance. Upon written request by The City reserves the City right to require Provider shall, within ten (10) days, to furnish certified copies of written responses from its authorized insurance carrier representatives to all inquiries made pertaining to the original policies of all insurance required under this Agreement.~~these Regulations at any time upon ten (10) days written notice to Provider.~~

H. The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in ~~this Agreement~~these Regulations by the Provider to the City or to limit the Provider's liability under ~~this Agreement~~these Regulations to the limits of the policy(ies) of insurance required to be maintained by Provider under ~~this Agreement~~these Regulations.

I. All insurance policies shall provide for at least thirty (30) days prior written notice to be given to the City ~~in the event the coverage is materially changed, canceled or not renewed. of any cancellation or non-renewal of any required insurance that is not replaced.~~ At least ten (10) business days prior to the expiration of each policy, Provider shall deliver to the City, a certificate of insurance evidencing the replacement policy(ies) to become effective immediately upon the termination of the previous policy(ies). Provider shall, in no event, permit any lapse in the insurance coverage required under ~~this Agreement~~these Regulations, and replacement coverage meeting the requirements of this Section shall be in effect prior to the expiration of the policy period.

J. In the event the Provider fails to procure and/or cause such insurance to be maintained, the City shall not be limited in the proof of any damages which the City may claim against Provider or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but the City shall also be entitled to recover damages for such breach, the uninsured amount of any loss, damages and expenses of suit and costs, including without limitation, reasonable collection fees, suffered or incurred during any period when Provider shall have failed or neglected to provide the insurance as required herein.

Section 25. Effective Date

These Regulations shall be effective immediately.

EXHIBIT A

Application for Communication Antenna Facilities Permit (CAP)

Application for Communication Antenna Facilities Permit & License (CAP+License)

1/9/18 version ~ Subject to change

Applications for Communication Antenna Facilities ("Facilities") in the public Right-of-Way.

Please Note: Submittal of false information will result rejection of the Application and/or rescission of associated CAP / CAP+License.

Please read the following information before proceeding.

- | |
|--|
| <ul style="list-style-type: none"> • Field Marks with * are required • An Application submitted by anyone other than the Facilities owner must be accompanied by a certification verifying applicant is an authorized representative of the Facilities owner. • The specified number of sheets must be accurate or the Application may not be accepted. |
|--|

(A) Application

* Request location for (Please check all the boxes that apply for the location):

- | |
|--|
| <input type="checkbox"/> Attachment to Utility Pole |
| <input type="checkbox"/> Attachment to City-owned Infrastructure |
| <input type="checkbox"/> Upgrade of Existing Facilities |
| <input type="checkbox"/> Number of Sheets |

(B) Applicant Information

* Applicant Type	<input type="checkbox"/> Facility / Company personnel	<input type="checkbox"/> Consultant / Authorized Representative
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*Applicant Name

*Mailing Address

City	State	Zip
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* Phone Number	*Email Address
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Engineer of Record (If applicable)

*Phone Number	*Email Address
---------------	----------------

Fax Number	*Emergency Contact Number
------------	---------------------------

(C) Facilities Owner Information

* Type:	<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation
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<input type="checkbox"/> Applicant is Owner

*Entity Name

Mailing Address

City	State	Zip
------	-------	-----

*Phone Number	*Email Address
---------------	----------------

Fax Number	*Emergency Contact Number
------------	---------------------------

(D) Requested Location

*GIS Coordinates	*City Pole ID #
------------------	-----------------

*Street Number (provide closest number)

Address	Zip Code
---------	----------

*Is requested location within 300 feet of a Historic building?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

*Is requested location within 300 feet of another pole?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

*Is requested location within 300 feet of a school?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

*Is requested location within 300 feet of a hospital / medical facility?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

*Is requested location within 300 feet of an Existing Facility?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

(E) Pole Description

* Pole type	*Name of pole owner
-------------	---------------------

*Pole dimension (feet)	Height	Circumference
------------------------	--------	---------------

(F) Existing Facilities Attached to the Pole

* Facility Type	<input type="checkbox"/> Carrier	<input type="checkbox"/> Neutral-Host Provider (if selected, complete Section H)
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*Number of Facilities attached to the Pole:

Dimensions of Proposed Facilities (Antenna)	Height	Width
---	--------	-------

Dimensions of Proposed Facilities (Enclosure Box 1)	Height	Width
---	--------	-------

Dimensions of Proposed Facilities (Enclosure Box 1)	Depth
---	-------

Dimensions of Proposed Facilities (Enclosure Box 2)	Height	Width	Depth
Backhaul Type and Provider			
FCC License # (if any)			

(G) Power & Communication Connection(s)

Power connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Power connection type		
Communication connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Communication connection type(s)		
Proposing New Junction box(s)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Number of Junction box(s)		
Dimensions of Junction box # 1	Height	Width
Dimensions of Junction box # 2	Height	Width
		Depth

(H) Sublease (Must complete if "Neutral Host Provider" per Section "F")

Number of Sublease(s)	
Names of the Carrier # 1	Date of the Sublease
Names of the Carrier # 2	Date of the Sublease
Names of the Carrier # 3	Date of the Sublease
Names of the Carrier # 4	Date of the Sublease

Permission

Permission for use of Utility Poles
<input type="checkbox"/> If applicant is installing, modifying, or removing Facilities from a Utility Pole, applicant certifies that s/he has permission from the Utility Pole owner. A copy of the agreement or permission from the Utility Pole owner has been provided and will be attached to this Application.
License Agreement for use of City-owned Infrastructure
<input type="checkbox"/> Applicant certifies that s/he has permission from the City to attach to City-owned Infrastructure under the Communication Antenna Facilities Master License Agreement ("Agreement") for the purposes specified therein.

EXHIBIT B

Application for Existing Communication Antenna Facilities Permit (CAP)
Application for Existing Communication Antenna Facilities Permit & License (CAP+License)

1/9/18 version ~ Subject to change

Please Note: Submittal of false information will result in rejection of the Application and/or rescission of associated CAP/CAP+License.

- Please read the following information before proceeding.

 - Field Marks with * are required
 - An Application submitted by anyone other than the Facilities owner must be accompanied by a certification verifying applicant is an authorized representative of the Facilities owner. The specified number of sheets must be accurate or the Application may not be accepted.

(A) Application

* Existing Facilities attached to (Please check all the boxes that apply for the location):

Utility Pole City-owned Infrastructure

(B) Applicant Information

* Applicant Type	<input type="checkbox"/> Facility / Company personnel	<input type="checkbox"/> Consultant / Authorized Representative
*Applicant Name		
*Mailing Address		
City	State	Zip
* Phone Number	*Email Address	
*Emergency Contact Person(ECP) (if different than the applicant)		
*ECP Phone Number	*ECP Email Address	

(C) Facilities Owner Information

* Type:	<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation	<input type="checkbox"/> Applicant is the owner
*Entity Name			
Mailing Address			
City	State	Zip	
*Phone Number	*Email Address		
Fax Number	* Emergency Contact Number		

(D) Pole Location

*GIS /GPS Coordinates: (x):	(y):
*City Pole ID #	*Company's Pole/Node ID #
*Street Number (provide closest house number / closest Intersection)	
Address	Zip Code

(E) Pole Description

* Pole type	*Name of pole owner	
*Pole dimension (feet)	Height	Circumference

(F) Existing Facilities Attached to the Pole

* Facility Type	<input type="checkbox"/> Carrier	<input type="checkbox"/> Neutral-Host Provider (if selected, complete Section H)	
*Number of Facilities attached to the Pole:			
Dimensions of Existing Facilities # 1	Height	Width	Depth
Dimensions of Existing Facilities # 2	Height	Width	Depth
Dimensions of Existing Facilities # 3	Height	Width	Depth
Backhaul Type and Provider			
FCC License # (if any)			

(G) Power & Communication Connection(s)

Power connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Power connection type		
Communication connection	<input type="checkbox"/> Underground	<input type="checkbox"/> Aerial
Communication connection type(s)		
Existing junction box(s)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Number of junction box(s)		
Dimensions of junction box # 1	Height	Width
Dimensions of junction box # 2	Height	Width
	Depth	

(H) Sublease (Must complete if "Neutral Host Provider" per Section "F")

Number of Sublease(s)		
Names of the Carrier # 1	Date of the Sublease	
Names of the Carrier # 2	Date of the Sublease	
Names of the Carrier # 3	Date of the Sublease	
Names of the Carrier # 4	Date of the Sublease	

*Permission for Existing Facilities (Applicant must select at least one (1) of the following)

Authorization from the Utility Pole owner for use of Utility Pole(s) located in the public ROW	<input type="checkbox"/>
<input type="checkbox"/> Applicant certifies that s/he has proof of Utility Pole owner's permission for placement of Existing Facilities on the Utility Pole, as specified. A copy of the agreement or permission from the Utility Pole owner has been provided and will be attached to this Application.	
Authorization from the City for Existing Facilities located in the public ROW	<input type="checkbox"/>
<input type="checkbox"/> Applicant certifies that s/he has proof of City's permission for placement of Existing Facilities on City-owned Infrastructure, as specified. A copy of the agreement or permission from the City has been provided and will be attached to this Application.	

DEPARTMENT OF CITY PLANNING

2013 CITY PLANNING DEPARTMENT

EXHIBIT C

Communication Antenna Facilities and Equipment/Components List

1/9/18 version ~ Subject to change

The following is a list of components for the location specified in this Application:

Component Type	Model / Identification Name	Notes