

## **DETAILED DESIGN GUIDELINES FOR WIRELESS COMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY**

### **Part I      General Overview**

#### **Section 1.    Initial Notes**

- A. This document is to be read in conjunction with Chapter 719, “Wireless Communications Facilities in the Right of Way,” of the City of Cincinnati Municipal Code (“CMC Chapter 719”).
- B. The City of Cincinnati’s Department of Transportation and Engineering is the responsible agency for administering the receipt and processing of applications for wireless communications facilities in the City’s right-of-way.
- C. All references hereafter to the “Department” or to “DOTE” refer to the Department of Transportation and Engineering.

#### **Section 2.    General Requirements**

- A. All Public Right-of-Way work shall be furnished and placed in compliance with the following general standards for construction in the public right-of-way:
  - a. State of Ohio Department of Transportation, (ODOT), Construction and Material Specifications, (CMS); latest edition.
  - b. ODOT CMS City of Cincinnati Supplement; (latest edition).
  - c. City of Cincinnati DOTE Sidewalk Regulations Book; (latest edition).
  - d. City of Cincinnati DOTE Street Restoration Manual; (latest edition).
  - e. City of Cincinnati, DOTE Standard Drawings; (latest edition).
  - f. City of Cincinnati, DOTE Traffic Engineering Division, Standard Traffic Signals & Street Lighting Construction Drawings; (latest edition).
  - g. City of Cincinnati, DOTE CURB RAMPS Design Guidelines and Policy, Standard Drawings and Specifications; (latest edition).
  - h. American Association of State Highway and Transportation Officials; (AASHTO), Standards and Guidelines; (latest editions).
  - i. National Fire Protection Association 70 National Electric Code; (NFPA-70 NEC); (latest edition).
  - j. Americans with Disabilities Act and implementing regulations, including, without limitation, currently proposed Americans with Disabilities Act Accessibility Guidelines (ADAAG) promulgated by the United State Access Board.
  - k. All applicable local, state, and federal codes and regulations.

- B. Copies of Items a. through k. listed above are available at:  
City of Cincinnati,  
Department of Transportation and Engineering  
Division of Engineering,  
Right-Of-Way Management Section  
City Hall, Room 428  
801 Plum Street, Cincinnati, Ohio 45202-1980  
Tel: (513) 352-3463

### **Section 3. Existing Infrastructure Restoration Requirements**

- A. **Streets and Alleys:** Upon installation of the new work, the contractor shall restore the street and/or alley pavement as required in full and complete compliance with the approved DOTE Right-Of-Way Permit and Wireless Communications Facility Permit, for use of the public Right-of-Way and the requirements of the City of Cincinnati Sidewalk Standards and Street Restoration Book.
- B. **Sidewalks:**
- a. Upon installation of the new work, the contractor shall restore all concrete walks, driveway aprons, and “collector strips” as required in full and complete compliance with the requirements of the following adopted at the time of such work:
    1. The approved DOTE Right-Of-Way Permit.
    2. The approved DOTE Wireless Facility Right-of-Way Occupancy Permit.
    3. City of Cincinnati Sidewalk Standards and Street Restoration Book.
    4. DOTE Central Business District (CBD), Streetscape Standards (as applicable).
    5. DOTE Special Improvement District (SID), Streetscape Standards (as applicable).
    6. DOTE Neighborhood Business District (NBD), Streetscape Standards (as applicable).
  - b. Upon installation of the new work, the contractor shall restore all tree lawns and/or sod strips with topsoil and sod in compliance with ODOT CMS standards.

## **Part II Permit Applications and Procedures**

### **Section 1. Permit Application Requirements**

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

strongly encouraged to ***contact the Department before submittal*** to ensure that it has consulted all the most up-to-date requirements.

- A. **Application Fee.** The applicant must provide the applicable permit application fee in the amount currently required by DOTE and listed in its permit fee schedule.
- B. **RF Compliance Affidavit.** Applicants must submit a sworn affidavit prepared and signed by an RF engineer with knowledge about the proposed project that affirms the proposed project will be compliant with all applicable governmental regulations in connection with human exposure to radiofrequency emissions. The affidavit must include (1) all frequencies on which the equipment will operate; (2) how many channels will be used on each frequency; (3) the effective radiated power (“ERP”) output level in measured watts; and (4) the height above ground for the lowest point on the lowest transmitter. The required disclosures above must be included for all transmitters on the support structure, which includes without limitation existing collocated antennas and antennas used for wireless backhaul (such as microwave dish antenna or U/E relay).
- C. **Regulatory Authorization.** To the extent that the applicant claims any regulatory authorization or other right to use the public right-of-way, the applicant must provide a true and correct copy of the certificate, license, notice to proceed or other regulatory authorization that supports the applicant’s claim.
- D. **Owner’s Authorization.** Applicants must submit evidence sufficient to show that either (1) the applicant owns the proposed support structure or (2) the applicant has obtained the owner’s authorization to file the application.
- E. **Site Plans and Structural Calculations.** The applicant must submit fully dimensioned site plans, elevation drawings and structural calculations prepared, sealed, stamped and signed by a Professional Engineer licensed and registered by the State of Ohio. Drawings must depict any existing wireless facilities with all existing transmission equipment and other improvements, the proposed facility with all proposed transmission equipment and other improvements and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements.
  - a. **Photo Simulations.** For all applications other than a Type I application for a collocation or modification to an existing facility with no concealment, the applicant must provide photo simulations from at least two reasonable line-of-site locations in the vicinity of the proposed project site. Photo simulations must be included in the site plans on a separate sheet.

- b. **Equipment Specifications.** For all equipment depicted on the plans, the applicant must include (1) the manufacturer's name and model number; (2) physical dimensions, including without limitation height, width, depth and weight with mounts and other necessary hardware; and (2) the ambient noise level generated from the equipment, if any.
- F. **Justification Statement.** For all Type II and Type III applications, the applicant must submit a written justification statement that includes (1) a short, plain statement to explain the applicant's technical objective and how the proposed facility will suit that technical objective; (2) color signal propagation maps with objective signal measurements in dBm (RSSI or RSRP), if the technical objective involves a gap in the applicant's service coverage; (3) forward data volume and average eligible scheduled user data for the affected macrosite, if the technical objective is to offload traffic from an existing facility; and (4) evidence that the applicant engaged in a reasonably diligent investigation as to whether any other potential locations would reasonably achieve the applicant's technical objective, including the physical address for each location and meaningful comparative analysis with the reasons why the applicant ruled out each alternative location. The Department shall not require a justification statement when the applicant proposes a Type I application or a standard configuration facility subject to minor review, as defined in these Guidelines.
- G. **Eligible Facilities Request Worksheet.** For all Type I applications, the applicant must submit a completed Eligible Facilities Request Worksheet.
- H. **Deposit Necessary to Cover Cost of Consultant.** Notice to the applicant that the Department has elected to retain a consultant for services under Section 719-5(c) of CMC Chapter 719 should include an estimated deposit required to cover the Department's costs to retain the consultant. The estimate shall not be binding on the Department and the Department may require further deposits.

## Section 2. Pre-Submittal Conference with the Department

- A. **Purpose.** The Department offers pre-submittal conferences to meet with potential applicants and discuss possible projects on a conceptual level. The conference is intended to identify the correct application type and content requirements for any given project, and also to create an informal forum in which applicants and the Department can discuss any aesthetic, historic preservation or other concerns that should be addressed as soon as possible to avoid any unnecessary delays in the processing of an application and deployment of wireless facilities in the City.

- B. **Appointment Required.** An appointment is required for all pre-submittal conferences. Department staff may establish regular hours in which appointments are available. Department staff will endeavor to provide applicants with an appointment within approximately five (5) business days after receipt of a written or email request. Each conference is generally limited to discussion of a single potential project, but applicants may request to discuss multiple projects provided that the additional time required does not prejudice other applicants' ability to obtain an appointment.
- C. **Optional Pre-Submittal Conferences.** Pre-submittal conferences are strongly encouraged but not required for (1) all Type I applications and (2) Type III applications for a standard configuration facility subject to minor review.
- D. **Mandatory Pre-Submittal Conferences.** Pre-submittal conferences are required for all projects subject to standard review, including without limitation all Type II applications and all Type III for a non-standard configuration facility.
- E. **Limited Waiver from Application Requirements.** The Department may grant a limited, written waiver from the obligation to submit a justification statement and/or photo simulations when the Department finds that strict compliance with the requirement would create an unnecessary or unreasonable burden. For example, the Director might waive the justification statement for a standard configuration facility in a location that requires standard review because the Department finds that the specific proposed location for the facility raises no aesthetic concerns. The applicant's request for a waiver must describe the proposed site location and design with sufficient particularity to allow the Department to ascertain whether a later-submitted application is the same proposal for which the waiver was granted.

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

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

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

### **Section 1. Overview.**

Minor modifications are additions or changes to previously approved facilities by the City and covered under 47 U.S.C. § 1455(a), which mandates approval for certain applications that do not propose a substantial change to the underlying facility. Federal regulations provide specific definitions and criteria for approval or denial. The provisions in this Part III are intended to assist applicants and the Department to determine whether an application qualifies for approval as a minor modification.

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

The definitions in CMC Chapter 719, Section 719-4, "Definitions Applicable to Type I Applications for Minor Modifications," shall apply to Type I applications for a minor modification.

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

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

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

### **Section 1. General Design and Construction Standards**

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

- A. **Collocation.** The Department desires and encourages collocations between two separate wireless service providers on the same support structure whenever feasible and safe.
- B. **Antennas.** The antenna(s) associated with the first installation must be top-mounted and concealed within a radome that also conceals the cable connections, antenna mount and other hardware. The Department may approve a side-mounted antenna with the initial installation if, in the Department's discretion, the side-mounted antenna would be more appropriate given the built environment, neighborhood character, overall site appearance and would promote the purposes in these Guidelines. GPS antennas must be placed within the radome or directly above the radome not to exceed six inches.
- C. **Pole-Mounted Equipment Cages.** When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage not to exceed 21 cubic feet in total volume. Equipment cages may not extend more than 10 inches beyond the pole centerline on either side. The equipment cage must be non-reflective and painted, wrapped or otherwise colored to match the existing pole. The City prefers and strongly encourages equipment cages to be mounted flush to the pole. All pole-mounted equipment must be installed as flush to the pole as possible. Any standoff mount for the equipment cage may not exceed 4 inches and the must include metal flaps (or "wings") to conceal the space between the cage and the pole.
- D. **Undergrounded Equipment Vaults.** The Department generally permits pole-mounted equipment in self-contained cages, but for applications subject to standard review, the Department may require placement of the equipment in an environmentally controlled underground vault.
- E. **Ground-Mounted Equipment.** The Department will not approve any new ground-mounted equipment unless the applicant (1) proposes the ground-mounted equipment in connection with a tapered metal pole and (2) shows clear and convincing evidence that the equipment cannot be feasibly installed as a pole-mounted installation, in an environmentally controlled underground vault, or within an existing street feature (such as

a bus stop shelter) for a valid technical reason. Increased costs alone shall be presumed to be insufficient. Ground-mounted equipment shall not be permitted in connection with a wood pole. In the event that the Department approves ground-mounted equipment, the applicant must conform to the following requirements:

- a. **Self-Contained Cabinet or Shroud.** The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the tapered metal pole and undergrounded between the pole and the ground-mounted cabinet.
  - b. **Concealment.** The Department may require the applicant to incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, public art displayed on the cabinet, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
  - c. **Ambient Noise Suppression.** The Department may require the applicant to incorporate ambient noise suppression measures and/or require the applicant to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations.
- F. **Utility Lines.** Service lines must be undergrounded whenever feasible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.
- G. **Electric Meter.** Multiple operators on a shared pole shall share a single electric meter. Site operators shall use the smallest and least intrusive electric meter available. The Department strongly encourages site operators to use flat-rate electric service when it would eliminate the need for a meter. Whenever permitted by the electric service provider, the electric meter should be painted to match the pole.
- H. **Telephone/Fiber Optic Utilities.** Cabinets for telephone and/or fiber optic utilities may not extend more than 10 inches beyond the pole centerline on either side, and must be painted, wrapped or otherwise colored to match the pole. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna.
- I. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.

- J. **Underground Conduit.** All underground conduit placed behind the curb face and underneath the sidewalk must be SCH 40 PVC encased in concrete. All underground conduit must be SCH 40 PVC encased in rigid metal material when placed: (1) underneath driveway aprons, (2) within tree wells or (3) in front of the curb face and beneath the street. See City Supplement Item No. 1321.
- K. **Above-Ground Conduit.** On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of 4" diameter, and painted to match the pole.
- L. **Ground Rods.** All ground rods shall be 1 inch in diameter and 10 feet in length made from copper-clad steel (high strength) as required in ASTM A325 and in compliance with ODOT CMS City Supplement Item No. 1320.
- M. **Lights.** Unless otherwise required for compliance with FAA or FCC regulations, the facility shall not include any permanently installed lights. Any lights associated with the electronic equipment shall be appropriately shielded from public view. The provisions in this subsection shall not be interpreted to prohibit installations on streetlights or the installation of luminaires on new poles when required by the Department.
- N. **Generally Applicable Health and Safety Regulations.** All facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, including without limitation all applicable regulations for human exposure to RF emissions.

## Section 2. General Location Criteria

- A. **Collocation Preference.** Whenever an applicant proposes to place a new wireless facility within 300 feet from an existing wireless facility, whether on a new pole or an existing potential support structure, the applicant must either collocate with the existing facility or demonstrate with clear and convincing evidence that a collocation is either not technically feasible or space on the existing facility is not potentially available.
- B. **General Limitation on New Poles.** The Department strongly discourages more than one (1) wireless facility on a new pole per block and will not approve more than one per block on each side of the street unless the applicant qualifies for a limited exception pursuant to Section 719-9(h) of CMC Chapter 719.

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

### Section 3. New and Replacement Poles

- A. **General Restrictions on New Wood Poles.** In all locations, the Department reserves the right to require a metal pole rather than a wood pole based on the built and/or natural environmental character of the proposed site location. The Department shall not approve any new wood poles in the following districts:
- a. Downtown Development District;
  - b. Riverfront Residential / Recreation Districts;
  - c. Historic Overlay Districts (including area adjacent to historic landmarks);
  - d. Underground Utility Districts (including areas where all utilities are primarily underground even if not established as formal district); and
  - e. Park and Recreation Districts primarily designed as more urban and active (in contrast to Park and Recreation Districts primarily designed as more suburban and passive with heavily wooded backdrop).
- B. **Overall Height.** Any pole greater than 36 feet above ground level shall be subject to standard review and approval by the Department. The Department shall consider other poles in vicinity, the built environment, the neighborhood character, the overall site appearance and the purposes in these Guidelines. The zoning district height limit shall not be determinative.
- C. **Pole Diameter.** Any wood pole with a diameter greater than 12 to 14 inches or any tapered metal pole with a diameter at base greater than 10 to 12 inches shall be subject to standard review and approval by the Department. The Department shall consider other poles in vicinity, the built environment, the neighborhood character, the overall site appearance and the purposes in these Guidelines.
- D. **Wood Pole Footings and Foundations.** All new wood poles must be direct buried to a depth determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Ohio, and subject to the Department's review and approval.
- E. **Tapered Metal Pole Footings and Foundations.** All new tapered metal poles must be supported with a reinforced concrete pier designed, stamped, sealed and signed by a professional engineer licensed and registered by the State of Ohio, and subject to the Department's review and approval. Footings and anchor bolts must be constructed from steel (high strength) per ATSM A36, threaded (J-type / L-type), hot-dip galvanized per ODOT CMS Item No. 711.02 and in a length and diameter determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Ohio, and subject to the Department's review and approval. All anchor bolts must be concealed

from public view with an appropriate pole boot or cover subject to the Department's prior approval.

- F. **Tapered Metal Pole Material.** All tapered metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant material approved by the Department and finished in accordance with these Guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements.
- G. **Metal Pole Finish.** Metal poles must be painted black (Federal Color No. 27038). The applicant may select a paint or powder coat system in compliance with ATSM standards.
- H. **Lighting; Banners.** The Department may require the applicant to install functional streetlights and/or banners when technically feasible and the Department determines that such additions will enhance the overall appearance and usefulness of the proposed facility.

#### **Section 4. Installations on Existing Poles and Other Potential Support Structures**

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

- a. **Standard CBD MOLT System Pole with Luminaire.** Refer to Appendix A for detailed design specifications for installations on Standard CBD MOLT System Poles. To the extent that any generally applicable standards in these Guidelines conflict with the design or specifications in Appendix A, the specifications in Appendix A will control.
- b. **Standard Tapered Metal Pole with Mast Arm and Luminaire.** Refer to Appendix B for detailed design specifications for installations on Standard Tapered Metal Pole with Mast Arm and Luminaire. To the extent that any generally applicable standards in these Guidelines conflict with the design or specifications in Appendix B, the specifications in Appendix B will control.
- c. **Independent Power Source.** A Wireless Communications Facility on a city-owned Potential Support Structure may not use the same power source that provides power for the original purpose of the Potential Support Structure.
- d. **City-Owned Traffic Control Signal Poles.** The City prohibits wireless facilities (and all other non-traffic control facilities) on City-owned traffic control signal poles.

## **Section 5. Additional Design and Construction Standards for Major Modifications**

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

- A. **Coordination with Original Facility Design.** The applicant must design the proposed installation in a manner that mimics the design and any concealment elements of the existing facility. To the extent feasible, new facilities should utilize capacity in existing equipment cages or cabinets and existing conduits or risers. The Department may, in its discretion, authorize the applicant to replace an existing equipment enclosure with a larger one when the Department determines that a larger enclosure is more visually appropriate than a second enclosure on the same support structure.
- B. **Antennas.** Any additional antenna(s) installed to the support structure must be side-mounted and parallel to the roadway. The Department prohibits side-mounted antennas that overhang the roadway, but may permit side-mounted antennas that overhang the sidewalk provided that the antenna complies with all applicable setbacks requirements in these Guidelines and the CMC.

- C. **Structural Integrity.** Any additional equipment must not negatively impact the structural integrity of the support structure and must comply with all applicable local, state and federal codes and regulations.

**Section 6. Standard Configuration Facilities**

- A. **Definition.** The Department defines a “standard configuration facility” as a pole-mounted wireless communication facility less than or equal to 36 feet above ground level in overall height, with pole-mounted or undergrounded equipment and compliant with all applicable general design standards and all the general location standards. Proposed facilities with ground-mounted equipment shall not be eligible for review as a standard configuration facility. Appendix C to these Design Guidelines illustrates a standard configuration facility. To the extent that any generally applicable standards in these Guidelines conflict with the design or specifications in Appendix C, the specifications in Appendix C will control.
- B. **Applicable Standard of Review.** To encourage standard configuration facilities in appropriate locations, the Department generally applies minor review. Applications for standard configuration facilities may require standard review in certain locations where, for example, historic resources or the City’s investment in the public right-of-way necessitates a closer examination or a design more tailored to the specific location and context. Table 1 below delineates when the Department applies minor or standard review. Applications for standard configuration facilities on wood poles in “RESTRICTED” locations shall not be approved. Applications for standard configuration facilities in area not listed in Table 1 shall be subject to standard review.

**Table 1: Applicable Standard of Review for Standard Configuration Poles by Proposed Location**

<b>Location</b>	<b>Standard Wood Pole Configuration</b>	<b>Standard Metal Pole Configuration</b>
Downtown Development District	RESTRICTED	MINOR REVIEW
Riverfront Residential / Recreation Districts;	RESTRICTED	MINOR REVIEW
Historic Overlay Districts (including area adjacent to historic landmarks)	RESTRICTED	STANDARD REVIEW
Park and Recreation Districts (primarily designed as more urban and active)	RESTRICTED	MINOR REVIEW
All Underground Utility Districts	RESTRICTED	MINOR REVIEW
Planned Development Districts	STANDARD REVIEW	STANDARD REVIEW
Interim Development Control Overlay Districts	STANDARD REVIEW	STANDARD REVIEW

Urban Design Overlay Districts	STANDARD REVIEW	STANDARD REVIEW
Single-Family Residential Districts (including all T3 transects and T4N.SF Transect)	MINOR REVIEW	MINOR REVIEW
Residential Mixed and Multi-Family Districts (including all T4 transects except T4N.SF and T4N.MF-O)	MINOR REVIEW	MINOR REVIEW
Office Districts (including T4N.MF-O)	MINOR REVIEW	MINOR REVIEW
Institutional-Residential Districts	MINOR REVIEW	MINOR REVIEW
Commercial Districts (including all T5 transects)	MINOR REVIEW	MINOR REVIEW
Urban Mixed Districts	MINOR REVIEW	MINOR REVIEW
Manufacturing Districts	MINOR REVIEW	MINOR REVIEW
Riverfront Commercial Districts	MINOR REVIEW	MINOR REVIEW
Riverfront Manufacturing Districts	MINOR REVIEW	MINOR REVIEW
Park and Recreation Districts (primarily designed as more suburban and passive with heavily wooded backdrop)	MINOR REVIEW	MINOR REVIEW
Neighborhood Business Districts	STANDARD REVIEW	MINOR REVIEW

- C. Standard Configuration Facilities on Existing Poles.** In accordance with the Department's general preference for wireless facilities on existing potential support structures, a proposed standard configuration facility on an existing pole will be eligible for minor review provided that the proposed facility on the existing pole does not exceed 36 feet above ground level and the finished project complies with all applicable design, construction and location standards.

## **Part V**                    **Approvals and Denials**

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

- A. Standard Review.** The Department may approve or conditionally approve an application subject to standard review only when it finds that:
- a. the proposed wireless facility, its support structure, equipment and all associated improvements, have been designed and sited in a manner that is sympathetic to the particular architectural character of the buildings and compatible with the streetscape in the vicinity of the proposed project site;
  - b. design elements of the proposed wireless facility, its support structure, equipment and all associated improvements, have been sensitively selected to reflect the detailing and materials associated with the buildings and streetscape in the vicinity of the proposed project site;

- c. the proposed wireless facility, its support structure, equipment and all associated improvements, have been designed and sited in a manner that does not adversely impact right-of-way circulation, accessibility, or obstruct existing or planned-future uses of the right-of-way; and
  - d. the proposed wireless facility complies with all applicable design, construction and location provisions in the Guidelines.
- B. **Minor Review.** The Department may approve or conditionally approve an application for a standard configuration facility subject to minor review only when it finds the following:
- a. the proposed project complies with all applicable design and construction standards for a standard configuration facility;
  - b. the proposed project complies with all applicable location standards; and
  - c. the project is proposed in a location identified appropriate for minor review in Table 1, found in Part IV of these Guidelines, above.

## Section 2. Minor Technical Exceptions.

- A. **Purpose.** The Department recognizes that in some circumstances strict compliance with these Guidelines may result in undesirable aesthetic outcomes, and that minor deviations should be granted when the need for such deviation arises from circumstances outside the applicant's control. For example, if an applicant proposes to construct a standard configuration facility in an office district, but required a pole with a slightly wider base due to a poor foundation conditions, the Department would consider granting a technical exception rather than subjecting an otherwise preferred design to a standard review. In contrast, if an applicant proposed a 50-foot tall standard configuration facility in an office district because it desired additional service area, the Department would apply standard review because the need for additional height arises from the applicant's preferences. This section describes the required findings for a minor technical exception.
- B. **Required Findings.** The Department may, in its sole discretion, grant a minor technical exception from strict compliance with the design and location guidelines when the Department finds that:
- a. the applicant has requested an exception in writing;
  - b. the proposed facility would normally qualify for minor review but for the need for a minor technical exception;
  - c. the need for the exception arises from an external factor outside the applicant's control that impact public health, safety or welfare, including without limitation soil compaction, existing congestion or

- clutter within the right-of-way or other location-specific phenomenon;
- d. the proposed deviation from the applicable requirement is less than 10% larger than the generally applicable standard; and
- e. the granting of a minor technical exception would not create any obvious hazard or unreasonable obstruction in the public right-of-way.

**Section 3. Written Decision.**

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

CMC - Chapter 719 Wireless Communications Facilities  
 DOTE Detailed Design Guidelines & Examples



NOTES:

1. STRUCTURAL REQUIREMENTS:

- A. THE APPLICANT SHALL SUBMIT STRUCTURAL, WIND LOAD, AND POLE PENETRATION DESIGN CALCULATIONS AND PLANS IN COMPLIANCE WITH AASHTO STANDARDS SIGNED AND STAMPED BY A STRUCTURAL ENGINEER LICENSED IN THE STATE OF OHIO.
- B. EXCAVATION, CONSTRUCTION, AND/OR INSTALLATION OF THE REQUIRED NEW ADJACENT UNDERGROUND PULLBOX SHALL NOT NEGATIVELY IMPACT OR UNDERMINE THE EXISTING LIGHT POLE FOOTING / FOUNDATION PIER OR ANY OTHER NEARBY STRUCTURE

2. WIRING & CABLE MANAGEMENT:

- A. ALL WIRING AND/OR CABLING AND THEIR CONNECTIONS SHALL BE CONCEALED FROM VIEW.

3. EQUIPMENT DESIGN:

- A. THE DESIGN OF POLE MOUNTED SYSTEM EQUIPMENT AND SHROUDS MAY VARY AS REQUIRED PER MANUFACTURER PER REVIEW AND APPROVAL OF COMPLIANCE WITH THE MAXIMUM DIMENSIONAL LIMITS NOTED .
- B. THE DESIGN INTENT FOR ALL EQUIPMENT AND SHROUDS IS TO INSTALL THE SMALLEST, LEAST PHYSICALLY AND VISUALLY INTRUSIVE EQUIPMENT AND SHROUDS POSSIBLE.

4. FINISHES:

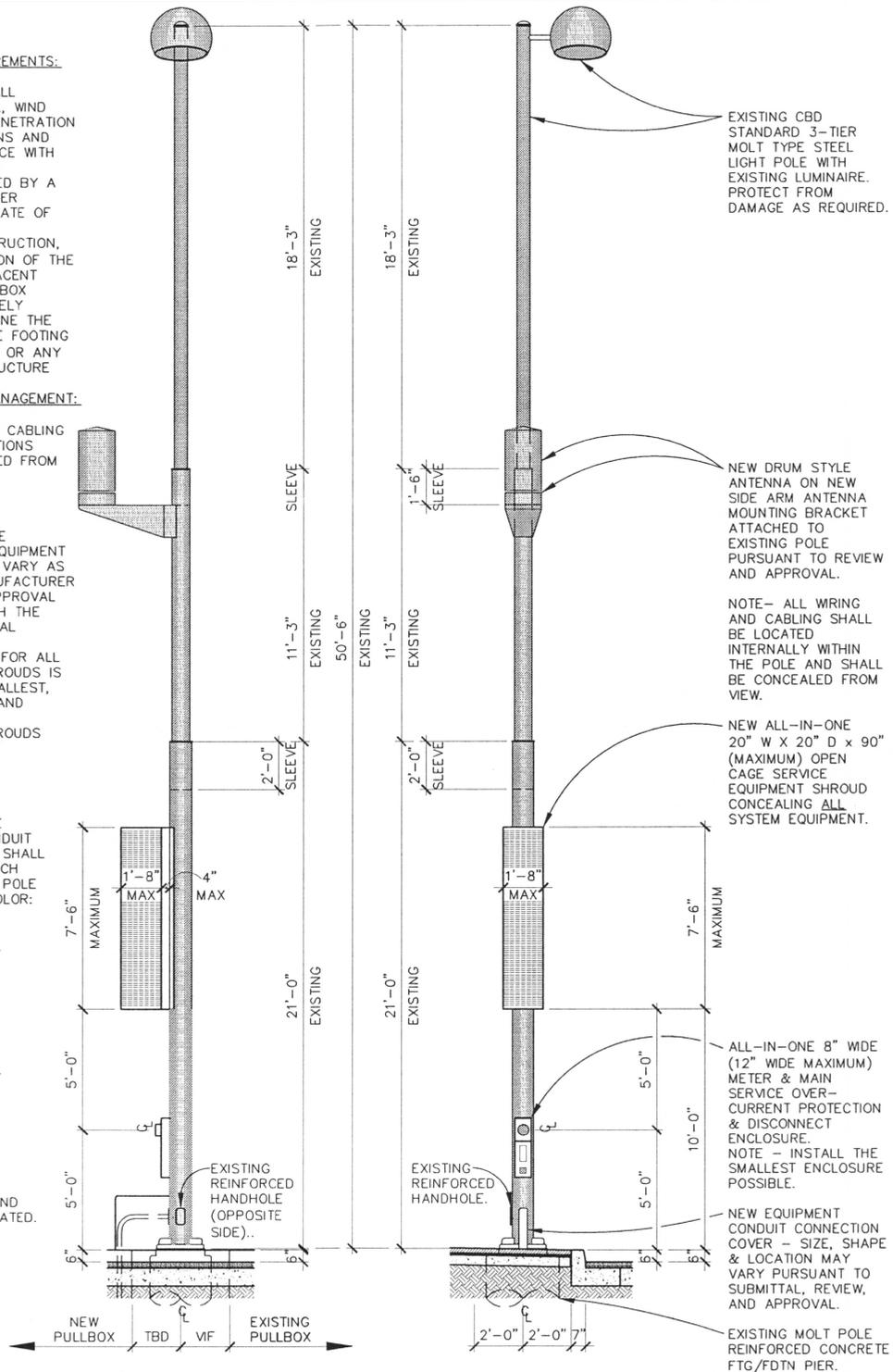
- A. ALL POLE MOUNTED EQUIPMENT AND THE ABOVE GROUND CONDUIT CONNECTION COVER SHALL BE PAINTED TO MATCH THE EXISTING LIGHT POLE APPROVED PAINT COLOR: FEDERAL STANDARD COLOR # 27038 - BLACK(SEMI-GLOSS).

5. EQUIPMENT NOISE:

- A. NOISE GENERATING EQUIPMENT SHALL NOT BE INSTALLED.

6. EQUIPMENT SIGNING:

- A. ALL EQUIPMENT IDENTIFICATION, COMPLIANCE, AND WARNING STICKERS SHALL BE THE SMALLEST SIZE AND FEWEST NUMBER ALLOWED BY LAW AND SYMMETRICALLY LOCATED.



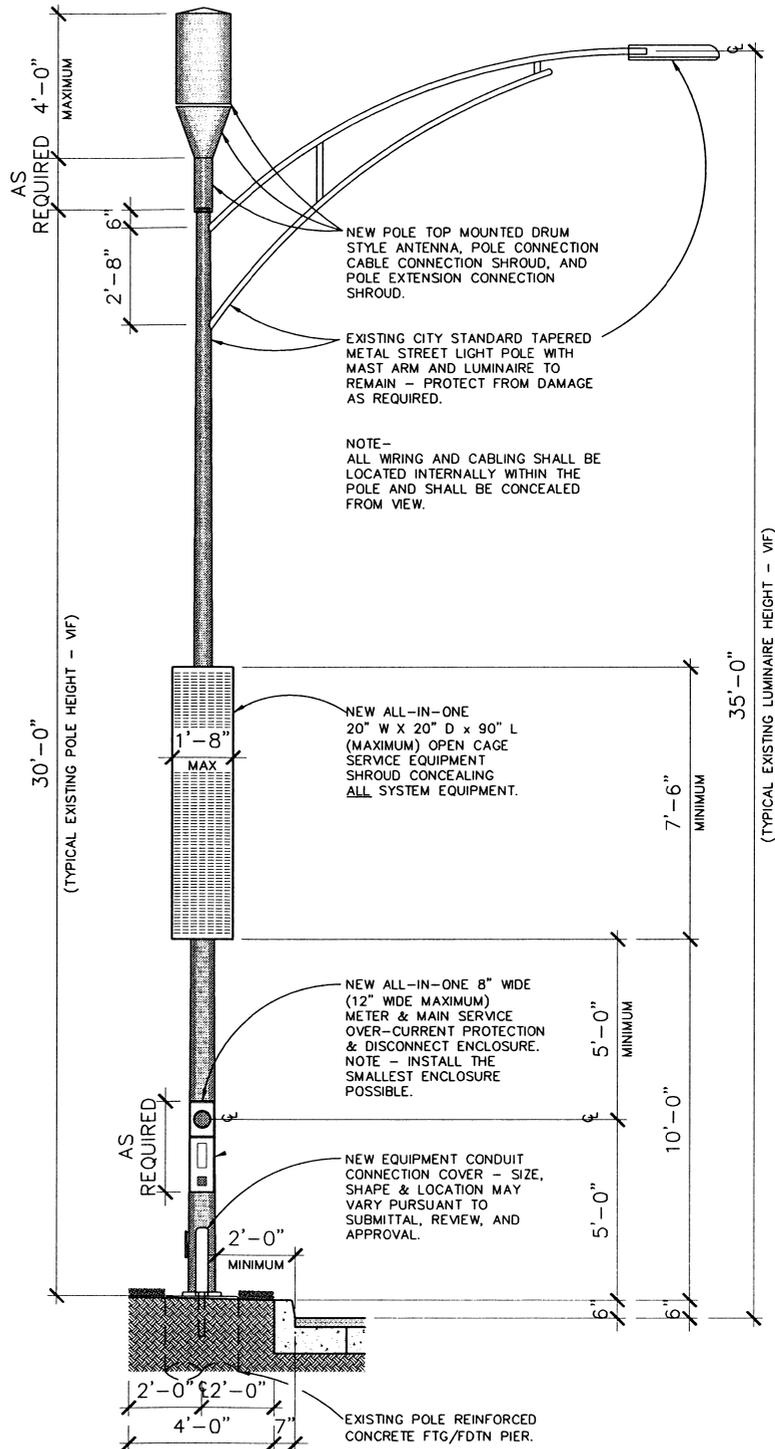
Appendix-A:  
 Standard Configuration - Existing CBD MOLT Pole with Pole Mounted System A

CMC - Chapter 719 Wireless Communications Facilities  
 DOTE Detailed Design Guidelines & Examples



NOTES:

1. STRUCTURAL REQUIREMENTS:
  - A. THE APPLICANT SHALL SUBMIT STRUCTURAL, WIND LOAD, AND POLE PENETRATION DESIGN CALCULATIONS AND PLANS IN COMPLIANCE WITH AASHTO STANDARDS SIGNED AND STAMPED BY A STRUCTURAL ENGINEER LICENSED IN THE STATE OF OHIO.
  - B. EXCAVATION, CONSTRUCTION, AND/OR INSTALLATION OF THE REQUIRED NEW ADJACENT UNDERGROUND PULLBOX SHALL NOT NEGATIVELY IMPACT OR UNDERMINE THE EXISTING LIGHT POLE FOOTING / FOUNDATION PIER OR ANY OTHER NEARBY STRUCTURE
2. WIRING & CABLE MANAGEMENT:
  - A. ALL WIRING AND/OR CABLING AND THEIR CONNECTIONS SHALL BE CONCEALED FROM VIEW.
3. EQUIPMENT DESIGN:
  - A. THE DESIGN OF POLE MOUNTED SYSTEM EQUIPMENT AND SHROUDS MAY VARY AS REQUIRED PER MANUFACTURER PER REVIEW AND APPROVAL OF COMPLIANCE WITH THE MAXIMUM DIMENSIONAL LIMITS NOTED .
  - B. THE DESIGN INTENT FOR ALL EQUIPMENT AND SHROUDS IS TO INSTALL THE SMALLEST, LEAST PHYSICALLY AND VISUALLY INTRUSIVE EQUIPMENT AND SHROUDS POSSIBLE.
4. FINISHES:
  - A. ALL POLE MOUNTED EQUIPMENT AND THE ABOVE GROUND CONDUIT CONNECTION COVER SHALL BE PAINTED MATTE SILVER TO MATCH THE EXISTING STREET LIGHT POLE
5. EQUIPMENT NOISE:
  - A. NOISE GENERATING EQUIPMENT SHALL NOT BE INSTALLED.
6. EQUIPMENT SIGNING:
  - A. ALL EQUIPMENT IDENTIFICATION, COMPLIANCE, AND WARNING STICKERS SHALL BE THE SMALLEST SIZE AND FEWEST NUMBER ALLOWED BY LAW AND SYMMETRICALLY LOCATED.



Appendix-B:  
 Standard Configuration - Existing Street Light Pole with Pole Mounted System

CMC - Chapter 719 Wireless Communications Facilities  
 DOTE Detailed Design Guidelines & Examples



NOTES:

1. NEW WOOD POLE INSTALLATIONS:

- A. ALL WOOD POLES SHALL BE INSTALLED AND MAINTAINED VERTICAL AND PLUMB.
- B. ALL WOOD POLES SHALL HAVE A BURY DEPTH AS REQUIRED BY A STRUCTURAL ENGINEER LICENSED IN THE STATE OF OHIO.
- C. ALL WOOD POLE INSTALLATIONS SHALL HAVE A 36'-0" MAXIMUM HEIGHT ABOVE GRADE.

2. POLE ATTACHMENT:

- A. ALL EQUIPMENT CABINETS AND/OR SHROUDS SHALL BE ATTACHED, ANCHORED, AND/OR STRAPPED TIGHTLY TO THE POLE A WITH A 4" MAXIMUM OFFSET.
- B. ALL CONDUIT SHROUDS SHALL BE STRAPPED TIGHTLY TO THE POLE AND SHALL NOT BE OFFSET FROM THE POLE.
- C. ALL POLE ATTACHMENT, ANCHORING, AND STRAPPING HARDWARE SHALL BE HOT-DIPPED GALVANIZED STEEL.

3. WIRING & CABLE MANAGEMENT:

- A. ALL WIRING AND/OR CABLING AND THEIR CONNECTIONS SHALL BE CONCEALED FROM VIEW, SHALL NOT BE LOOSELY INSTALLED, LOOPED, OR CONNECTED EXTERNAL OF SHROUDING.
- B. ALL SHROUDING SHALL BE ANCHORED AT EQUALLY SPACED INTERVALS TO KEEP THE CONDUIT STRAIGHT AND TAUT AGAINST THE POLE.
- C. OPEN WIRING AND/OR CABLING ENCLOSURES SHALL NOT BE PERMITTED OR INSTALLED.

4. EQUIPMENT DESIGN:

- A. THE DESIGN OF THE ANTENNA, ANTENNA POLE ATTACHMENT SHROUD, ALL-IN-ONE OPEN-CAGE SERVICE EQUIPMENT SHROUD, AND ALL-IN-ONE METER ENCLOSURE MAY VARY AS REQUIRED PER MANUFACTURER IN COMPLIANCE WITH THE MAXIMUM DIMENSIONAL LIMITS NOTED.

5. FINISHES:

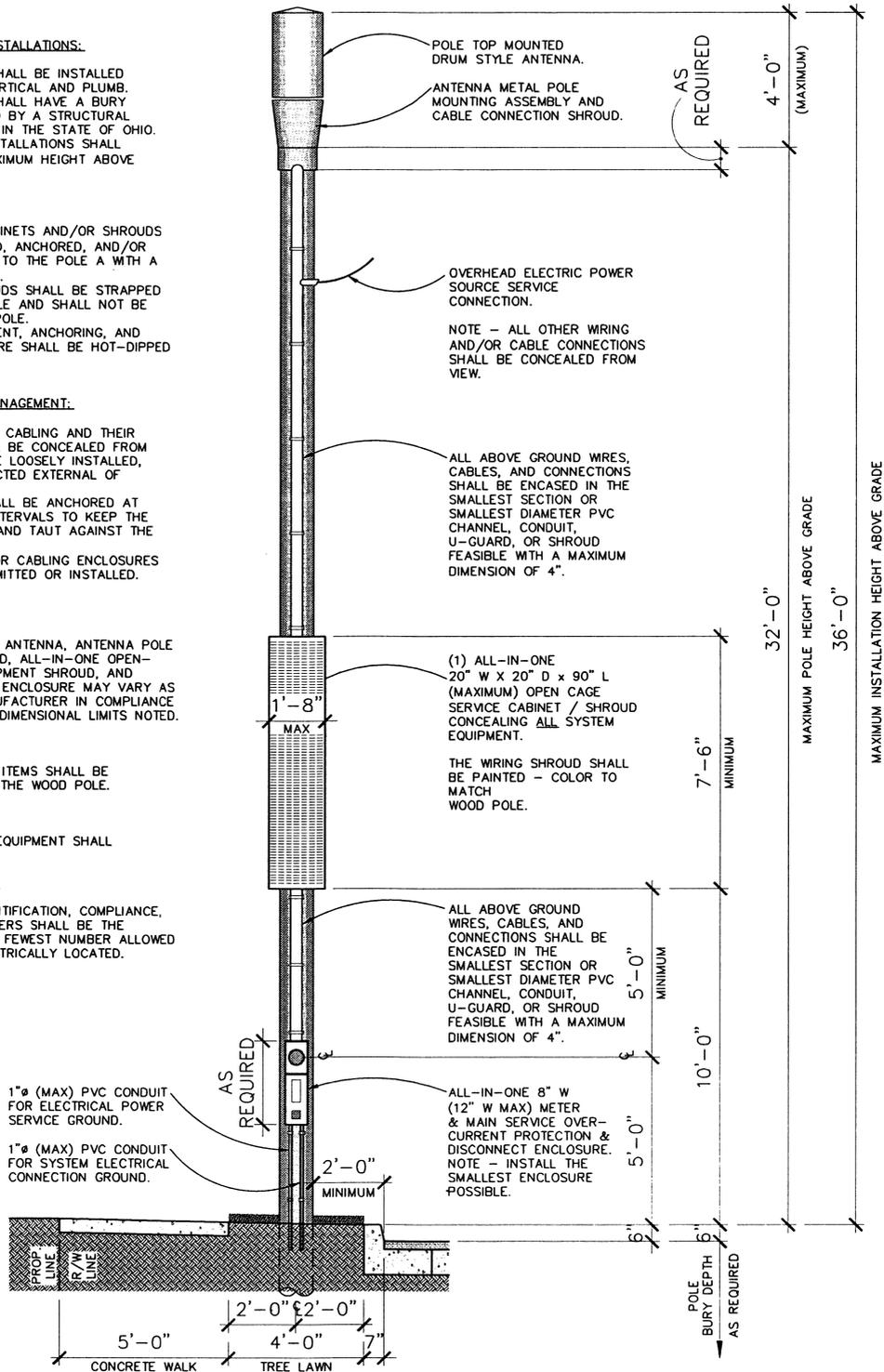
- A. ALL POLE MOUNTED ITEMS SHALL BE PAINTED TO MATCH THE WOOD POLE.

6. EQUIPMENT NOISE:

- A. NOISE GENERATING EQUIPMENT SHALL NOT BE INSTALLED.

7. EQUIPMENT SIGNING:

- A. ALL EQUIPMENT IDENTIFICATION, COMPLIANCE, AND WARNING STICKERS SHALL BE THE SMALLEST SIZE AND FEWEST NUMBER ALLOWED BY LAW AND SYMMETRICALLY LOCATED.



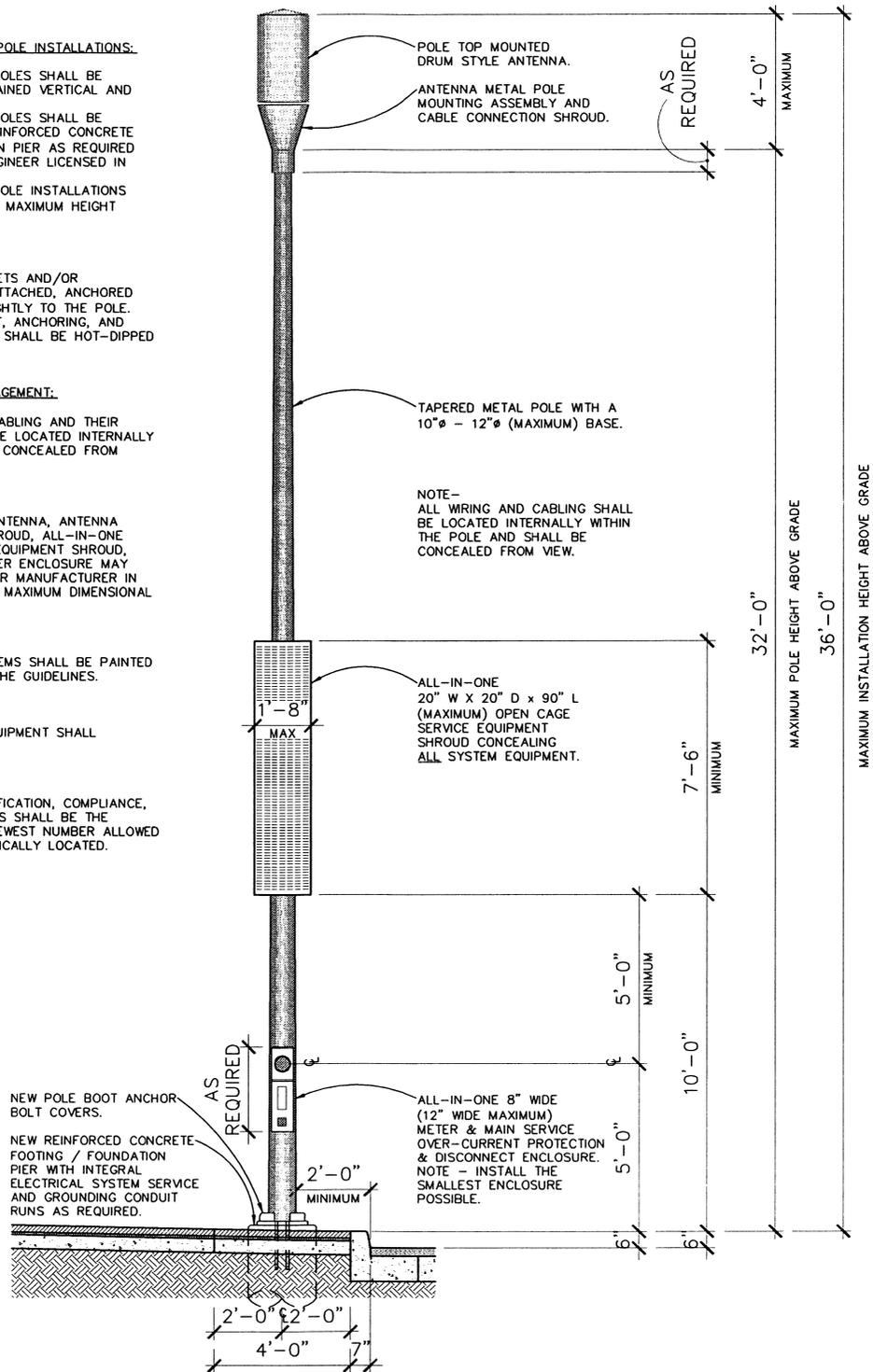
Appendix-C:  
 Standard Configuration - New Wood Pole w/ New Pole Mounted System

CMC - Chapter 719 Wireless Communications Facilities  
 DOTE Detailed Design Guidelines & Examples



NOTES:

1. **NEW TAPERED METAL POLE INSTALLATIONS:**
  - A. ALL TAPERED METAL POLES SHALL BE INSTALLED AND MAINTAINED VERTICAL AND PLUMB.
  - B. ALL TAPERED METAL POLES SHALL BE ANCHORED ONTO A REINFORCED CONCRETE FOOTING / FOUNDATION PIER AS REQUIRED BY A STRUCTURAL ENGINEER LICENSED IN THE STATE OF OHIO.
  - C. ALL TAPERED METAL POLE INSTALLATIONS SHALL HAVE A 36'-0" MAXIMUM HEIGHT ABOVE GRADE.
2. **POLE ATTACHMENT:**
  - A. ALL EQUIPMENT CABINETS AND/OR SHROUDS SHALL BE ATTACHED, ANCHORED AND/OR STRAPPED TIGHTLY TO THE POLE.
  - B. ALL POLE ATTACHMENT, ANCHORING, AND STRAPPING HARDWARE SHALL BE HOT-DIPPED GALVANIZED STEEL.
3. **WIRING & CABLE MANAGEMENT:**
  - A. ALL WIRING AND/OR CABLING AND THEIR CONNECTIONS SHALL BE LOCATED INTERNALLY WITHIN THE POLE AND CONCEALED FROM VIEW.
4. **EQUIPMENT DESIGN:**
  - A. THE DESIGN OF THE ANTENNA, ANTENNA POLE ATTACHMENT SHROUD, ALL-IN-ONE OPEN-CAGE SERVICE EQUIPMENT SHROUD, AND ALL-IN-ONE METER ENCLOSURE MAY VARY AS REQUIRED PER MANUFACTURER IN COMPLIANCE WITH THE MAXIMUM DIMENSIONAL LIMITS NOTED.
5. **FINISHES:**
  - A. ALL POLE MOUNTED ITEMS SHALL BE PAINTED IN COMPLIANCE WITH THE GUIDELINES.
6. **EQUIPMENT NOISE:**
  - A. NOISE GENERATING EQUIPMENT SHALL NOT BE INSTALLED.
7. **EQUIPMENT SIGNING:**
  - A. ALL EQUIPMENT IDENTIFICATION, COMPLIANCE, AND WARNING STICKERS SHALL BE THE SMALLEST SIZE AND FEWEST NUMBER ALLOWED BY LAW AND SYMMETRICALLY LOCATED.





EMERGENCY

City of Cincinnati

LDM/B 

An Ordinance No. 308

- 2016

**ORDAINING** new Chapter 719, “Wireless Communications Facilities,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code to provide wireless communications companies and their customers with access to the right of way, in order to comply with federal law and Federal Communications Commission regulations regarding wireless facilities, to establish clear rules for the siting of wireless communications facilities in the right of way, and to protect the City’s interests in preserving the right of way aesthetically and as a pedestrian-friendly thoroughfare.

WHEREAS, wireless carriers and companies that build infrastructure to support wireless communications equipment, or wireless communications facilities, have sought and are seeking to install wireless communications facilities in the right of way, whether by attaching to existing structures or, more commonly, by installing new structures; and

WHEREAS, federal law authorizes the Federal Communications Commission (FCC) to establish rules related to installing, or siting, wireless communications facilities, the FCC has promulgated such rules, and the rules are applicable to local governments nationwide; and

WHEREAS, Council desires to create rules and regulations governing the placement of wireless communications facilities in the right of way to address the increasing demand to install structures in the right of way in a manner that complies with the FCC requirements, treats applicants equally, clearly communicates the standards for the City’s decisions regarding applications, and ensures that wireless carriers can provide coverage to customers in the City; and

WHEREAS, Council desires that the rules governing the receipt of and response to applications to locate facilities in the right of way also preserve the character and aesthetic appeal of the City’s neighborhoods and avoid excessive structures in the right of way that could create safety hazards or impede the comfortable flow of pedestrian traffic; and

WHEREAS, establishing rules and processes for wireless communications facilities is in accordance with the guiding policy principle to “Preserve our resources and facilitate sustainable development” as described on page 81 of Plan Cincinnati (2012), the Compete goal to “Foster a climate conducive to growth, investment, stability, and opportunity” as described on page 103, the Live goal to “Create a more livable community” as described on page 156, and the Sustain goal to “Preserve our natural and built environment” as described on page 197; and

WHEREAS, Council finds it appropriate to ordain a new system of rules to govern wireless communications facilities in the right of way and to provide for the public health, safety, morals, and general welfare; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Chapter 719, “Wireless Communications Facilities in the Right of Way,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code is hereby ordained to read as follows:

**CHAPTER 719 - WIRELESS COMMUNICATIONS FACILITIES IN THE RIGHT OF WAY**

**Sec. 719-1. - Purpose and Goals.**

The purpose of this chapter is to establish general procedures and standards, consistent with all applicable federal and state laws, for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the right of way. The goals of this chapter are to:

- (a) Provide standards for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the city’s right of way and for payment of fees and charges to be uniformly applied to all applicants and owners of wireless communications facilities or support structures for such facilities.
- (b) Establish basic criteria for applications to site wireless communications facilities in the right of way and authorize the director of the department of transportation and engineering to develop, publish, and from time to time amend applications and other associated materials to provide clear guidance to applicants.
- (c) Ensure that wireless communications facilities will conform to all applicable health and safety regulations and will blend into their environment to the greatest extent possible.
- (d) Enhance the ability of wireless communications carriers to deploy wireless infrastructure in the city quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability.
- (e) Preserve the character of the city’s neighborhoods and historic districts.
- (f) Comply with, and not conflict with or preempt, all applicable state and federal laws, including without limitation Section 101(a) and Section 704 of the Telecommunications Act, Pub. L. 104-104, 101 Stats. 56, 70 (Feb. 8, 1996) (codified as 47 U.S.C. §§ 253(a), 332(c)(7)), as may be amended or superseded, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. 112-96, 126 Stat. 156 (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)), as may be amended or superseded, and all FCC rules and regulations to interpret and implement applicable federal statutes.

**Sec. 719-2. - Applicability.**

- (a) *Existing wireless communications facilities.* Wireless communications facilities for which a permit has been issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter, except as set forth in Section 719-17, Nonconforming Wireless Communications Facilities.
- (b) *Exclusion for amateur radio facilities.* This chapter shall not govern the installation of any amateur radio facility that is owned or operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- (c) *Exclusion for certain over-the-air receiving devices.* This chapter shall not govern the installation of any OTARD antennas covered under FCC regulations codified in 47 C.F.R. §§ 1.4000 *et seq.*, as may be amended or superseded. OTARD antennas include, without limitation, direct-to-home satellite dish antennas less than one meter in diameter, television antennas and wireless cable antennas.
- (d) *Exclusion for handsets and user equipment.* This chapter shall not govern the use of personal wireless devices (e.g., cell phones) or other consumer-grade mobile user equipment used in the public right-of-way.
- (e) *Relationship to other chapters.* This chapter shall supersede all conflicting requirements of other titles and chapters of this Code regarding the locating and permitting of wireless communications facilities in the right of way.

**Sec. 719-3. - General Definitions.**

For the purposes of this Chapter 719 and except where expressly provided in Section 719-4, “Definitions Applicable to Type I Applications for Minor Modifications,” the following words and phrases used in this Chapter 719 shall have the meanings ascribed to them in this Section 719-3, regardless of whether or not the words and phrases are capitalized.

**Sec. 719-3-A1. - Antenna.**

“Antenna” means any apparatus designed for the purpose of the transmission and/or reception of radio frequency (“RF”) radiation, to be operated or operating from a fixed location to facilitate wireless communications services including but not limited to the transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds.

**Sec. 719-3-A1. - Applicant.**

“Applicant” means any person that submits an application to the city to site, install, construct, collocate, modify, and/or operate a Wireless Communications Facility in the right of way.

**Sec. 719-3-B. - Base Station.**

“Base Station” means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(1), as may be amended and interpreted by the FCC and any other authority with competent jurisdiction, which defines that term as follows:

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower as defined in 47 C.F.R. § 1.40001(b)(9) or any equipment associated with a Tower.

(i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(iii) The term includes any structure other than a Tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in paragraphs (b)(1)(i)–(ii) of this section.

As an illustration and not a limitation, the FCC’s definition refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless facilities mounted on utility poles and other structures in the right of way, light standards, or traffic signals when such structure is approved by the city as an appropriate support for wireless transmission equipment. An existing structure without wireless equipment replaced with a new one designed to bear the additional weight from wireless equipment constitutes a base station.

**Sec. 719-3-C. - Collocation.**

“Collocation” means the mounting or installation of a Wireless Communications Facility on an existing Eligible Support Structure or Potential Support Structure for the

purpose of transmitting and/or receiving radio frequency signals for communications purposes, as more specifically defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be amended or superseded.

**Sec. 719-3-D1. - Design Guidelines.**

“Design Guidelines” means those detailed design guidelines and examples promulgated by the department of transportation and engineering for the design and installation of structures supporting wireless communications facilities in the right of way, which are effective insofar as they do not conflict with FCC rules and regulations or the design standards established in section 719-11 of this chapter.

**Sec. 719-3-D2. - Design Standards.**

“Design Standards” means those standards established in section 719-11 of this chapter, approved by the city planning commission and adopted by city council, for the design, construction, and installation of wireless communications facilities in the right of way, which are supplemented by Design Guidelines, and which are effective insofar as they do not conflict with state or federal law, including without limitation any applicable FCC rules and regulations.

**Sec. 719-3-E. - Eligible Support Structure.**

“Eligible Support Structure” means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended, which defines that term as “[a]ny tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.”

**Sec. 719-3-P1. - Potential Support Structure.**

“Potential Support Structure” means an existing building or structure, other than a Tower as defined in this section, that may be transformed into a base station through the mounting or installation of an antenna or transmission equipment after that city approves it as a support structure and the permittee installs transmission equipment pursuant to such approval; Potential Support Structures include but are not limited to buildings, steeples, water towers, utility poles, light poles, City-owned structures in the right of way, and outdoor advertising signs.

**Sec. 719-3-P2. - Person.**

“Person” means, without limitation, a natural person, a corporation, whether nonprofit or for profit, a partnership, a limited liability company, an unincorporated society or association, and two or more persons having a joint or common interest.

**Sec. 719-3-R. - Right of Way.**

“Right of Way” means real property for or devoted to (1) public transportation purposes; or (2) the placement of the city’s municipal utility easements and other

traditional uses along a transportation route, whether by dedication, prescription, or otherwise, as well as the spaces above and below. In addition to the foregoing, the definition of right of way includes, without limitation, public highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, and viaducts within the city.

**Sec. 719-3-S. - Substantial Change.**

“Substantial change” means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(7), as may be amended, and as applicable to facilities in the public right-of-way, which defines that term as a collocation or modification that:

- (a) increases the overall height more than 10% or 10 feet (whichever is greater);
- (b) increases the width more than 6 feet from the edge of the wireless tower or base station;
- (c) involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets;
- (d) involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets;
- (e) involves excavation or deployment of equipment outside the area in proximity to the structure and other transmission equipment already deployed on the ground;
- (f) would defeat the existing concealment elements of the support structure as determined by the Department; or
- (g) violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change.

**Note:** For clarity, the definition in this Chapter includes only the definition of a substantial change as it applies to facilities in the public right-of-way. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date that Congress passed Section 6409(a) of the Middle Class Tax Relief and Job Creation Act.

**Sec. 719-3-T1. - Tower.**

“Tower” means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site, as more

specifically defined by the FCC in 47 C.F.R. § 1.40001(b)(9), as may be amended or superseded.

**Sec. 719-3-T2. - Transmission Equipment.**

“Transmission Equipment” means any equipment that facilitates transmission of any FCC licensed or authorized wireless communications service, including but not limited to radio transceivers, and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply, as more specifically defined by the FCC in 47 C.F.R. § 1.40001(b)(8). This definition includes equipment in any technological configuration associated with any FCC authorized wireless transmission, licensed or unlicensed, commercial mobile, private mobile, fixed wireless microwave backhaul, and fixed broadband.

**Sec. 719-3-W1. - Wireless Communications Facility.**

“Wireless Communications Facility” means any unstaffed installation for the transmission and/or reception of radio frequency signals for wireless communications services, typically consisting of a tower or base station, transmission equipment, equipment cabinets, and all materials or techniques used to conceal the installation.

**Sec. 719-3-W2. - Wireless Communications Service.**

“Wireless Communications Service” means any FCC-licensed or authorized wireless communication service including, without limitation, any personal wireless services, as defined in 47 U.S.C. § 332(c)(7)(D).

**Sec. 719-3-W3. - Wireless ROW Permit.**

“Wireless ROW Permit” means a wireless facility right-of-way occupancy permit as further defined in Section 719-9(c).

**Sec. 719-4. - Definitions Applicable to Type I Applications for Minor Modifications.**

For Type I applications for minor modifications, the following words and phrases shall have the meanings ascribed to them below, regardless of whether or not the words and phrases are capitalized. In the event that any defined term conflicts with any applicable federal law or regulation, the federal law or regulation shall control.

**Sec. 719-4-E1. - Eligible Support Structure Request.**

“Eligible Support Structure Request” means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(3), as may be amended, which defines that term as “[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) [c]ollocation of new transmission equipment; (ii) [r]emoval of transmission equipment; or (iii) [r]eplacement of transmission equipment.”

**Sec. 719-4-E2. - Existing.**

“Existing” means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended, which provides that “[a] constructed tower or base station is existing for purposes of [the FCC’s Section 6409(a) regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.”

**Sec. 719-4-S. - Site.**

“Site” means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be amended, which provides that “[f]or towers other than towers in the public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.”

**Sec. 719-5. - Applications.**

- (a) *Requirement.* Anyone seeking to site a Wireless Communications Facility in the right of way shall first duly file a written application with the city’s department of transportation and engineering, in accordance with the requirements in this section and the application requirements set forth in the Design Guidelines as modified from time to time by the director of the department of transportation and engineering by the authority granted in Section 719-11(c).
- (b) *Single facility per application.* A single application shall propose modification of no more than one existing Eligible Support Structure, installation on a Potential Support Structure, or construction of a new tower or base station.
- (c) *Recovery of additional costs incurred in processing application.* The department of transportation and engineering is authorized to charge the applicant for recovery of additional, reasonable costs incurred in its analysis, evaluation, and response to an application under this chapter if the actual costs of review exceed the application fee. Nothing in the reasonableness limitation on additional costs shall be construed to bar or limit the city’s authority to incur costs it deems necessary or appropriate in connection with the application. Additional costs may include unforeseen City staff review costs and the costs of third-party technical experts hired to assist with review application. No City construction or ROW wireless permits shall issue until and unless the applicant pays the application fee and such additional costs as are authorized to be recovered under this paragraph.
  - 1. *Authorization to retain independent consultants.* The director of the department of transportation and engineering may, in his or her discretion, and at any time in the review process, select and retain an independent consultant with expertise in telecommunications satisfactory to the department of

transportation and engineering in connection with any permit application. In the event that the department of transportation and engineering decides to retain an independent consultant for technical review, it shall send written notice to the applicant including a nonbinding estimate of the cost for such review. The applicant shall have five business days from the date of mailing of notice to elect to withdraw the application without any liability for any costs or expenses in connection with the independent technical review.

2. *Scope.* The department of transportation and engineering may request independent consultant review on any issue that involves specialized or expert knowledge in connection with the permit application. Technical review issues may include, but are not limited to:
  - i. permit application completeness or accuracy;
  - ii. planned compliance with applicable RF exposure standards;
  - iii. whether and where a significant gap exists or may exist, and whether such a gap relates to service coverage or service capacity;
  - iv. the applicability, reliability, and/or sufficiency of analyses or methodologies used by the applicant to reach conclusions about any issue within this scope; and
  - v. any other issue that requires expert or specialized knowledge identified by the department of transportation and engineering.
3. *No permit until payment.* The applicant must pay for the cost of consultant technical review and for the technical consultant's testimony in any hearing as requested by the department of transportation and engineering. No permit shall issue to an applicant where that applicant has not timely paid any fee required under the Municipal Code or if the applicant owes payment on outstanding invoices for costs recoverable by the City under this Chapter 719.

#### **Sec. 719-7. - Categories of Applications.**

In accordance with FCC regulations, the department of transportation and engineering shall classify every application to locate a Wireless Communications Facility in the right of way as one of the following three types:

- (a) A Type I application is for a minor modification that:
  1. involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
  2. does not substantially change the physical dimensions of the existing wireless tower or base station.

(b) A Type II application is for a modification that:

1. involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
2. substantially changes the physical dimensions of the existing wireless tower or base station or does not qualify for approval pursuant to 47 U.S.C. § 1455(a) for any lawful reason.

(c) A Type III application is one that proposes:

1. siting new transmission equipment on a Potential Support Structure in the right of way that does not already support transmission equipment; or
2. siting a new wireless communication facility on a new tower or other support structure in the right of way.

**Sec. 719-9. - Application Review and Wireless Facility Right-of-Way Occupancy Permit.**

- (a) *General standard of review for wireless communications facilities.* All wireless communications facilities in the right of way shall conform to the provisions of this chapter and to the Design Guidelines as modified from time to time by the director of the department of transportation and engineering. The department of transportation shall review and consider each application according to the application classifications, review processes, and deployment standards described in the Design Guidelines.
- (b) *Notice to residents.* Within 10 days of filing a Type II or Type III application, the applicant shall provide the department of transportation and engineering with proof of notice to the owners of all real property located within a 200-foot radius of the site of the proposed Wireless Communications Facility as well as notice to the corresponding community council(s). The notice shall inform interested persons of the opportunity to file written comments to be submitted to the department of transportation and engineering, which comments should address whether the application conforms to the provisions of this chapter. The applicant shall provide the department with proof that the notice required under this section has been given, including a mailing list for all recipients and a copy of the mailed notice. Notwithstanding the above, the department of transportation and engineering may, at its discretion, provide additional public notice if it determines such notice is in the best interests of the public. Notice shall not be required for Type I applications.
- (c) *Written decision.* Within five working days after the department of transportation and engineering renders a decision on an application, it shall send written notice to the applicant. Any denial shall include the reasons for the denial and information regarding the process for an administrative appeal under Section 719-9.

- (d) *Approval.* Approval of an application shall include the following permissions:
1. *Permit to construct.* A permit to construct the approved wireless communications facility, subject to any conditions established by the department of transportation and engineering to carry out the purposes and intent of this chapter and the Cincinnati Municipal Code.
  2. *Wireless facility right-of-way occupancy permit.* A wireless right-of-way occupancy permit (“Wireless ROW Permit”) granting the applicant permission to occupy the right of way at the proposed site and subject to (a) the standard conditions required by Section 719-10 and (b) any additional conditions required by the director of the department of transportation and engineering to carry out the purposes and intent of this chapter and the Cincinnati Municipal Code. The Wireless ROW Permit shall not convey title, equitable or legal, in the right of way.
- (e) *Restrictions on Wireless ROW Permits.* A Wireless ROW Permit may be transferred upon notification to the city and acceptance by the transferee to allow the transferee to site wireless facilities in the same location on the same supporting structure as the transferor. Such a transfer may be made only to a provider who possesses a current Wireless ROW Permit from the city for siting wireless facilities elsewhere in the right of way.
- (f) *Denial.* The city reserves the right to deny an application if any one of the following conditions exist:
1. The applicant has not demonstrated that its application conforms to the provisions of this chapter and the Cincinnati Municipal Code, including the Design Guidelines established pursuant to this chapter;
  2. The applicant is not authorized to conduct business in the State of Ohio;
  3. For any Type I application, the applicant has failed to show that the project qualifies for approval pursuant to 47 U.S.C. § 1455(a) and the related FCC regulations at 47 C.F.R. § 1.40001 *et seq.*;
  4. For any Type II or Type III application, the applicant has failed within the prior three years to comply or is presently not in full compliance with the requirements of this chapter with regard to another Wireless Communications Facility that is not the subject of the application in question;
  5. The applicant is in default of its obligation to pay to the city fees imposed by this chapter;
  6. The design or location does not comply with the relevant standards promulgated by the American Association of State Highway and Transportation Officials (AASHTO) and utilized by the department of transportation of engineering for construction in the right of way;

7. The design or location does not comply with current or proposed Americans with Disabilities Act Accessibility Guidelines (ADAAG) promulgated by the United State Access Board.

(g) *Appeal of denial on the merits.* Upon denial of an application for failure to meet the requirements of this chapter, the applicant may appeal the decision to the director of the department of transportation and engineering for reconsideration. The appeal must be in writing and delivered to the director no later than 5:00 P.M. (EST) on the tenth business day after written notification by the city of denial of the permit. An appeal must provide a detailed explanation, in writing, of the reasons the applicant contends the proposed wireless facility satisfies the requirements of Chapter 719 (including if the application qualifies for a limited exemption for personal wireless service facilities under Section 719-9(h)). The appeal should include supporting documentation. The director shall review the written appeal together with other evidence in the record and grant the permit if the director determines that, based on substantial evidence in the application record, the permit complies with the requirements of Chapter 719. The director shall issue a written decision within ten (business days of the filing of the appeal. Failure by applicant to appeal and request reconsideration under this section shall constitute a failure to exhaust administrative remedies for purposes of any subsequent appeal in a court of law.

(h) *Limited exemption for personal wireless service facilities.* Federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services. Due to wide variation among wireless facilities and technical service objectives, and due to changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. Circumstances in which an effective prohibition may occur are extremely difficult to discern, and specified findings to guide the analysis promotes clarity and the City's legitimate interest in well-planned wireless facilities deployment. Therefore, in the event that any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed wireless communications facility, would effectively prohibit the provision of personal wireless services, the director of the department of transportation and engineering may grant a limited, one-time exemption from strict compliance, subject to the following provisions:

1. *Required findings.* The director of the department of transportation and engineering shall not grant any exemption unless the applicant provides each of the following:
  - i. Evidence that the proposed wireless facility qualifies as a "personal wireless services facility" as defined in 47 U.S.C. § 332(c)(7)(C)(ii);
  - ii. A clearly defined and reasonable technical service objective and a clearly defined potential site search area; and

- iii. A meaningful comparative analysis that includes the factual reasons why (1) any alternative location(s) or design(s) suggested by the City or otherwise identified in the administrative record are not technically feasible and (2) the proposed location and design deviation is the least noncompliant location and design necessary to reasonably achieve the applicant's technical service objective.
2. *Scope of exemption.* The director of the department of transportation and engineering shall limit the exemption to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The department of transportation and engineering may adopt conditions of approval specific to a permit issued as a limited exemption pursuant to this section, as reasonably necessary to promote the purposes in this chapter and protect the public health, safety, and welfare.

**Sec. 719-10. - Standard Conditions of Permit Approval.**

- (a) *Standard conditions of approval.* Permission to site wireless communications facilities in the right of way shall be conditioned on compliance with the standard conditions of approval provided in this Section 719-10. The department of transportation and engineering may add or modify conditions of approval as necessary or appropriate to protect and promote the public health, safety, and welfare.
- (b) *Wireless ROW Permit duration.* For Type II and Type III permits, the Wireless ROW Permit will automatically expire ten years from the issuance date, except when federal or state law authorizes the City to issue a permit with a shorter term. Any request for a permit renewal shall be reviewed as request for a new permit subject to all applicable procedures and standards in effect at the time the request is received.
- (c) *Standard conditions of approval for Type I permits.* Any Type I permit approved or deemed granted by the operation of law shall be automatically subject to the following conditions of approval:
  1. *Permit duration.* The city's grant or grant by operation of law of a Type I permit constitutes a federally-mandated modification to the underlying permit or approval of the subject tower and/or base station. The City's grant or grant by operation of law of a Type I permit will not extend the permit term for any underlying permit or other regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
  2. *Accelerated permit terms due to invalidation.* In the event that any court of competent jurisdiction invalidates any portion of 47 U.S.C. § 1455(a) or any FCC rule that interprets 47 U.S.C. § 1455(a) such that federal law would not mandate approval of any Type I permit, such permit shall automatically expire one year from the effective date of the judicial order, unless the decision specifically does not authorize accelerated termination of previously approved Type I permits. A permittee shall not be required to remove its improvements

approved under the invalidated Type I permit if it submits an application for a Type II or Type III permit for those improvements before the one-year period ends. The department of transportation and engineering may extend beyond one-year the time in which a permittee may apply for a Type II or Type III permit for an invalidated Type I permit.

3. *No waiver of standing.* The City's grant or grant by operation of law of a Type I permit does not waive, and shall not be construed to waive, any standing by the City to challenge 47 U.S.C. § 1455(a), any FCC rules that interpret 47 U.S.C. § 1455(a), or any particular Type I permit.

(d) *Standard conditions of approval for all Wireless ROW permits.* All applications for Type I, II, and III permits shall be subject to the following standard conditions of approval by operation of law:

1. *Compliance with all applicable laws.* Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.
2. *Inspections; emergencies.* The City or its designee may inspect a Wireless Communications Facility in the right of way upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The City reserves the right to support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
3. *Contact information for responsible parties.* Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address, and email address for at least one natural person. All such contact information for responsible parties shall be provided to the department of transportation and engineering.
4. *Indemnities.* The permittee and, if applicable, the non-government owner of a Wireless Communications Facility shall defend, indemnify, and hold harmless the City and its agents, officers, officials, and employees from:
  - i. Any and all damages, liabilities, injuries, losses, costs, and expenses arising out of any claims, demands, lawsuits, writs of mandamus, or other actions or proceedings brought against the City to challenge, attack, seek to modify, set aside, void, or annul the City's approval of the applicable Wireless ROW Permit; and
  - ii. Any and all damages, liabilities, injuries, losses, costs, and expenses and any claims, demands, lawsuits, or other actions or proceedings of any kind, whether for personal injury, death, or property damage, arising out of or in connection with the activities or performance of the

permittee or its agents, employees, licensees, contractors, subcontractors, or independent contractors.

- iii. In the event the City becomes aware of any such actions or claims, the City shall promptly notify the permittee and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.
5. *Interference with public safety radio services.* In the event that the City has reason to believe that permittee's radio communications operations are causing interference with the City's radio communications operations, then the permittee shall, at its cost, immediately cooperate with the City to either rule out permittee as the interference source or eliminate the interference. Cooperation with the City may include, but shall not be limited to, temporarily switching the transmission equipment on and off for testing.
6. *Adverse impacts on adjacent properties.* Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.
7. *General maintenance.* The site and the facility, including but not limited to all landscaping, fencing, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
8. *Good condition required.* Wireless communications facilities shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not menace or endanger the life or property of any person.
9. *Graffiti abatement.* Permittee shall remove any graffiti on the wireless facility at permittee's sole expense.
10. *RF exposure compliance.* All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards.
11. *Relocation for public improvement projects.* Permittee shall remove and relocate the permitted Wireless Communications Facility at permittee's sole expense to accommodate construction of a public improvement project by the City as required under Chapter 722 of the Cincinnati Municipal Code.
12. *Removal if discontinued use.* In the event that the use of a Wireless Communications Facility is discontinued, the owner shall provide written

notice to the city of its intent to discontinue use and the date when the use shall be discontinued. If a Wireless Communications Facility is not removed within ninety (90) days of discontinued use, the city may remove it at the owner's expense irrespective of the notice requirement under this section.

13. *Taxes and assessments.* To the extent taxes or other assessments are imposed by taxing authorities on the use of city property as a result of an applicant's use or occupation of the right of way, the applicant shall be responsible for payment of such taxes, payable annually unless otherwise required by the taxing authority.

**Sec. 719-11. - Design Standards and Siting Preferences.**

(a) *General design principles.* Every Type II and Type III Wireless Communications Facility must conform to the following design principles:

1. The proposed wireless facility, its support structure, equipment and all associated improvements, shall be designed and sited in a manner that is sympathetic to the particular architectural character of the buildings and compatible with the streetscape in the vicinity of the proposed project site;
2. Design elements of the proposed wireless facility, its support structure, equipment and all associated improvements, shall be sensitively selected to reflect the detailing and materials associated with the buildings and streetscape in the vicinity of the proposed project site;
3. The proposed wireless facility, its support structure, equipment and all associated improvements, shall be designed and sited in a manner that does not adversely impact right-of-way circulation, accessibility, or obstruct existing or planned-future uses of the right-of-way; and
4. The proposed wireless facility shall comply with all applicable design, construction and location provisions in the Design Guidelines.

(b) *Design guidelines.* The department of transportation and engineering shall promulgate additional detailed Design Guidelines for the design and installation of wireless communications facilities in the right of way, which the department shall consider in reviewing an application. The Design Guidelines will accord with this section but will provide greater detail, description, and examples of acceptable wireless facilities including visual depictions. In addition, the Design Guidelines shall provide administrative and procedural guidance to applicants such as, for example, a list of minimum application requirements. The provisions in this section shall not limit or prohibit the department's discretion to promulgate and make publicly available other information, materials or requirements in addition to, and separate from, the Design Guidelines.

(c) The Design Guidelines shall be reviewed and approved by the city planning commission before being finalized. The director of the department of transportation

and engineering shall have authority to update or supplement the Design Guidelines to address relevant changes in law, technology, or administrative processes. Any revisions to the Design Guidelines that would materially modify the physical design requirements for wireless facilities to make them more obtrusive or materially modify the standard and minor review locations for wireless facilities shall be presented to the city planning commission for review and recommendation at a duly-noticed hearing prior to adoption by the director. The notice shall be transmitted, at minimum, to all community councils and any person holding a Wireless ROW Permit under Chapter 719 or having an active permit application for the same. In the event of any conflict between the Design Guidelines and the standards articulated in this chapter of the Cincinnati Municipal Code, the language of this chapter takes precedence over the language of the Design Guidelines.

- (d) For revisions to the Design Guidelines required to be presented to the city planning commission under Section 719-11(c), the city shall provide notice of the proposed revisions to all community councils and any person who holds a permit under this Chapter 719, and shall provide reasonable time (not less than 14 days) for those persons to review and comment on the proposed modifications.

**Sec. 719-13. - Recovery of Costs; Use of Revenue.**

All costs recovered under this chapter shall be used to reimburse the department of transportation and engineering for its costs incurred in responding to applications and monitoring installation and maintenance of wireless communications facilities in the right of way pursuant to this chapter.

**Sec. 719-15. - Safety Requirements.**

- (a) *Prevention of failures and accidents.* Any person who owns a Wireless Communications Facility sited in the right of way shall at all times employ ordinary and reasonable care and install and maintain in use nothing less than the best available technology for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.
- (b) *Compliance with fire safety and FCC regulations.* Wireless communications facilities, wires, cables, fixtures, and other equipment shall be installed and maintained in substantial compliance with the requirements of the National Electric Code, all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- (c) *Surety bond or equivalent financial tool for cost of removal.* All owners must procure and provide to the city a bond, or must provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this section. The bond or equivalent financial method must specifically cover the cost of removal of each Wireless Communications Facility which the owner installs in the right of way in case the city has to remove or pay for removal of the wireless facility. Two acceptable alternatives to a bond include a funds set-aside and a letter of credit.

**Sec. 719-17. - Nonconforming Wireless Communications Facilities.**

- (a) Any Wireless Communications Facility sited in the right of way that is legally in existence on the date of the adoption of this chapter but that does not comply with the requirements of this chapter shall be permitted to remain in the right of way but shall be considered a nonconforming Wireless Communications Facility.
- (b) As of the effective date of the ordinance establishing this chapter, the owner of the nonconforming facility and the facility itself are subject to the standard conditions found in Section 719-10 and the maintenance requirements found in Section 719-15 of this Chapter.
- (c) If a nonconforming Wireless Communications Facility is hereafter damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this chapter of the Cincinnati Municipal Code and the Design Guidelines.
- (d) The provisions in this section shall not be applied to prohibit or deny any collocation or modification pursuant to a Type I application, as required by FCC regulations.

**Sec. 719-19. - Severability.**

The provisions of any part of this chapter are severable. If any provision or subsection, or the application of any provision or subsection to any person or circumstances, is held invalid, the remaining provisions, subsection, and applications of such ordinance to other persons or circumstances shall not be made invalid as well. It is declared to be the intent of this section that the remaining provisions would have been adopted had such invalid provisions not been included in this chapter when originally adopted by Council.

**Sec. 719-99. - Penalties.**

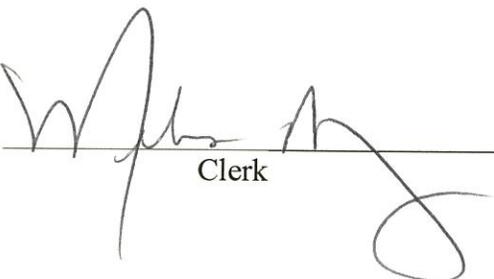
- (a) Any person who shall erect, construct, reconstruct, alter, repair, convert, attach, or maintain any Wireless Communications Facility in violation of any of the terms of this chapter, or who, being the owner or agent of the owner of any lot, tract, or parcel of land, shall suffer or permit another to erect, construct, reconstruct, alter, repair, convert, attach, or maintain any such facility, shall be deemed to have violated the provisions hereof and commits a Class D Civil Offense as defined by § 1501-9(a) of the Cincinnati Municipal Code each day during the period such violation continues.
- (b) If any Wireless Communications Facility is erected, constructed, reconstructed, altered, repaired, converted, attached, or maintained in violation of this chapter or of any regulations made pursuant hereto, the proper officer of the city, in addition to other remedies, may institute in the name of the city any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, attachment, or use, to restrain, correct, or abate such violation, to prevent the use of such facility, and/or to prevent any illegal act, conduct, business, or use in or about such facility.

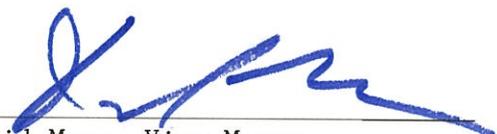
(c) The department of transportation and engineering is authorized to make requests and to issue orders regarding wireless communications facilities in the right of way for the purpose of public safety and compliance with this chapter of the Cincinnati Municipal Code. The department of transportation and engineering is also authorized to conduct visual and external inspections of wireless communications facilities and support structures in the right of way at any time and shall make efforts to coordinate with the provider responsible for a Wireless Communications Facility for any internal inspection of the relevant equipment.

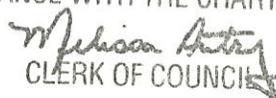
Section 2. That the City Manager and his or her designee are hereby authorized to take all actions necessary and proper to implement the regulatory standards and procedures established in this ordinance.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the need to implement the new regulations and standards so that applicants and relevant City departments can take action to address pending requests in accordance with the new design and location standards as soon as possible.

Passed: September 28, 2016

Attest:   
Clerk

  
David Mann, Vice Mayor

I HEREBY CERTIFY THAT ORDINANCE No. 308-2016  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 10-11-2016  
  
CLERK OF COUNCIL

Honorable City Planning Commission  
Cincinnati, Ohio

**SUBJECT:** A report and recommendation on a proposed new Chapter 719, “Wireless Communications Facilities,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code and the accompanying document *Detailed Design Guidelines & Examples*.

**BACKGROUND AND INDUSTRY ENGAGEMENT:**

As data needs increase in the coming years, communication companies will seek to construct more wireless communication facilities in the public right-of-way in order to meet customer demands. The wireless communications infrastructure constructed, or sought to be constructed, in the public right-of-way may be attached to an existing structure, such as an existing pole, or may be a new structure, such as a new pole, equipment box, cabinet, or meter.

Federal law authorizes the Federal Communications Commission (FCC) to establish rules related to installing, or siting, wireless communications facilities. While those rules limit local governments’ ability to deny access to the right-of-way, the rules do not preclude the City from establishing clear standards for the siting of wireless communications facilities in the right-of-way, and to protect the City’s interests in preserving the right-of-way aesthetically and as a pedestrian-friendly thoroughfare.

The City of Cincinnati’s Law Department, in conjunction with the Department of Transportation and Engineering, has developed language for a new Chapter 719, “Wireless Communications Facilities,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code and document to supplement that ordinance, *Detailed Design Guidelines & Examples*. The proposed legislation and guidelines will create rules and regulations governing the siting of wireless communications facilities in the right-of-way in a manner that complies with the FCC requirements, treats applicants equally, communicates the standards for the City’s decisions regarding applications, and ensures that wireless carriers can provide coverage to customers in the City of Cincinnati, while still ensuring that such facilities are as unobtrusive as possible. The ordinance for the proposed new Chapter 719, “Wireless Communications Facilities,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code and the accompanying document *Detailed Design Guidelines & Examples* are forthcoming and will be made available before the June 17 meeting of the Planning Commission.

On May 20, 2016, the City Planning Commission considered a report and recommendation on this topic. After hearing testimony from local and regional wireless communications industry representatives, the Commission voted to table this item for one month so that the City Staff could further engage industry representatives. Although the Commission members determined that their primary responsibility is the proposed design guidelines, they requested that City Staff engage industry representatives on both the design guidelines and the application process.

City Staff held three working meetings with communications industry representatives. During the May 31, 2016 meeting, industry representatives expressed their concerns about the design guidelines and discussed the limitations of current wireless communications infrastructure, specifically in regard to size of equipment available to them in the Midwestern marketplace. On June 7 - 8, 2016, both City Staff and industry representatives took part in an Innovation Lab, led by the City of Cincinnati’s Office of Performance and Data Analytics, which was designed to develop solutions to both design guideline and process issues through a collaborative process. These three days of work resulted in substantial changes to the application process and design guidelines for the benefit of the industry. While the details of both will continue to be developed, there was significant progress made.

### **DESCRIPTION OF REVISED PROPOSED APPLICATION PROCESS:**

Anyone seeking to site a wireless communications facility in the right-of-way (ROW) must first submit an application to the City's Department of Transportation and Engineering (DOTE). Classification of applications (Type I, Type II, and Type III) and the maximum time period for a written determination are determined by FCC regulations.

1. A **Type I** application is: a request for a modification to an eligible facility that *does not substantially change* the physical dimensions of the eligible facility.
2. A **Type II** application is: a request for a modification to an eligible facility that *substantially changes* the physical dimensions of the eligible facility.
3. A **Type III** application is: a request to construct a new tower in the ROW, or a request to install new antennae and transmission equipment to an existing structure in the ROW that does not already support transmission equipment.

#### ***Pre-Application***

One of the ideas that arose from the recent meetings with industry representatives is a pre-application conference. Before submitting an application, applicants may schedule a pre-application meeting with DOTE Staff. The goal of the meeting will be to communicate the proposed location and design of the wireless communication facility. DOTE Staff will advise the applicant on any specific design guidelines that will apply to the proposed site, recommend the most appropriate course of action, and alert them to any concerns related to the specific site and surrounding area. After this first step, the applicant could make any necessary adjustments to the initial plan and prepare the full application for submittal.

#### ***Application Requirements***

All complete applications must include a full submittal package that is anticipated to include the following key components:

1. Radio Frequency Studies
  - Applications must include an affidavit as to compliance with radio frequency requirements.
  - In some cases, a full radio frequency field study will be necessary.
2. FCC Licenses and, if applicable, State certifications.
3. Design Plans
4. Equipment Specifications
5. Photo Simulations
6. Justification Studies
  - Applications must include an affidavit regarding the need for coverage and data capacity needs at the proposed location.
  - In some cases, a more detailed study may be necessary.
7. Eligible Facility Requirements
  - Applicants will submit a checklist to show that the facility to which they seek to attach additional transmission equipment qualifies as an eligible facility.
8. Attachment Agreements
  - Applications will be approved with the permit to construct contingent on the applicant submitting an attachment agreement showing it has permission to attach to a third party's existing support structure.
9. FAA Notice

- If site is within an airspace notice slope, applicant will submit an affidavit that notice has been provided to the FAA.

#### 10. Historic District

- If in a Historic District, any required review by the City of Cincinnati's Urban Conservator or the State Historic Preservation Office (SHPO) shall be submitted with the application.

#### 11. Fees

- The application fee is a flat fee.
- If DOTE requires outside consultation, technical expertise from a third party, in order to process an application, the reasonable cost of such consultation will be passed on to the applicant. However, DOTE will inform the applicant before determining to use third-party services if the cost of those services is intended to be passed on to the applicant.
- Generally, DOTE is allowed to and will recover its actual costs for processing applications.

#### ***Public Notice***

No less than thirty (30) days prior to making a decision on an application, DOTE will provide notice of all Type II and Type III applications to property owners located within 200 feet of the site of the proposed wireless communications facility. The notice will invite property owners to provide written comment on whether the application conforms to the regulations. No public notice will be provided for Type I applications because they are applications to add transmission equipment to existing wireless communications towers or small cell poles, which ***will not substantially change*** the existing size, shape, or concealment method of the eligible structure to which the equipment will be attached.

#### ***Review of the Application***

Upon receipt of a complete application submittal, DOTE staff will confirm whether the applicant has demonstrated that the proposed wireless communication facility meets the FCC regulations and complies with the City's design guidelines. If the application is (1) for a standard design and configuration authorized in the *Detailed Design Guidelines and Examples* and (2) in a location designated for "minor review," the application will ordinarily be approved subject only to standard permit conditions. DOTE is developing a matrix of (mostly zoning) districts within the City that allow the applicant to quickly identify whether a proposed site is eligible for minor review based on a standard pole-mounted configuration. If the proposed facility deviates from the authorized standard configurations or is in a sensitive district requiring closer scrutiny (e.g., in a historic or undergrounding district), it will be given standard review, still within the timelines required by the FCC, and still as quickly as possible.

Applications subject to standard review may, of course, be granted. Such an application may be denied but with a suggested technical or design modification, or a suggested change in location, which if accepted would make it approvable. Sometimes an applicant may present a completely unique design, as a proposal appropriate to the specific location at which the applicant desires to site a wireless facility. Ideally such an application will have been discussed at a pre-application conference prior to being submitted in order. DOTE will review such an application through the standard review process to determine if the proposal fits with the spirit of Chapter 719 and the *Detailed Design Guidelines and Examples* and is appropriate for the specific location at issue. If any application is denied, the applicant can appeal the decision to the Director of DOTE. This process will provide applicants the right to a "second look" at any given application, and it will ensure that there is uniformity in DOTE's decisions and the application of Chapter 719 and the *Design Guidelines and Examples*.

**Determination**

If it is determined that an application for a wireless transportation facility *does not* conform to the provision of this chapter, DOTE shall provide the applicant with a written decision along with the reason for the denial supported by substantial evidence of the reasons in a written record.

**DESCRIPTION OF REVISED PROPOSED DESIGN GUIDELINES:**

The legislation states the goal that every wireless communications facility must be designed with the goals of visual concealment, camouflage, and stealth in order to make wireless communications facilities in the ROW as visually and physically unobtrusive as possible.

The primary elements of the Design Guidelines consist of specifications regarding the location of the proposed wireless communications facility, the configuration, mounting, and dimensions of the equipment, and the height and diameter of the pole. The basic details of these guidelines are shown in the table below:

Design Factor	Standard Specifications (for a single facility)		Expanded Capacity Specifications (for co-located facilities)	
Overall Structure/ Height:	District specific (25ft-36ft) Above Ground Level		District specific (25ft-36ft) Above Ground Level	
Pole Diameter:	Wood 12"- 14"	Metal tapered 10"-12" base	Wood (12"- 14")	Metal tapered 10"-12" base
Equipment Mounting:	Pole mounted cage	District specific review option	Pole mounted cage	District specific review option
Equipment Dimensions:	20" x 20" x 90" cage		(20" x 20" x 90" cage) x2	
Antennae Mounting:	Top mount preference Reviewable side mount		Top mount preference Reviewable side mount	

The “standard configuration” established in the *Design Guidelines* and eligible for treatment as a “minor review” in designated locations through the city is a pole-mounted wireless facility that meets the standard specifications set forth below. While not appropriate for all locations within the City, this standardized configuration will generally be acceptable under the *Design Guidelines* in most of the city. Examples of the standard wooden and metal pole configurations are attached as an exhibit to this Agreement.

**Exceptions to Design Specifications**

There are situations in which exceptions to the standard specifications and *Design Guidelines* will be appropriate. Applications for such facilities will be addressed through the standard (rather than minor) review process and potentially eligible for an exception. A proposed facility may not meet the design guidelines because meeting the design guidelines in that particular location is not feasible, or because other design impediments make the standard design not feasible. A technical modification to the standard design for that location may be appropriate. Other situations may involve a unique design which an applicant wishes to propose for a particular location (e.g., integration of wireless facilities into street furniture).

**Pole Types**

For Type III applications (a request to mount or install new antennae and transmission equipment to a non-tower supporting structure in the ROW that does not already support transmission equipment; or a request to construct a new tower in the ROW), the *Design Guidelines* designate where wood or metal poles are anticipated to be acceptable based on the zoning district or other special designation. For instance, wood poles are allowable in districts where wood poles are already prevalent, such as Single Family Residential, Multi-

Family Residential, Office, Commercial, or Manufacturing districts. However, wood poles require review in Urban Design Overlay Districts, Interim Development Control Districts, and Planned Development Districts, and are completely restricted in the Downtown Development District, Historic Districts, and other districts where wood poles may detract from the existing infrastructure in the right-of-way. Please see the attached *Location/Design/Review Matrix*.

***Detailed Design Guidelines & Examples***

DOTe has created a document to accompany the legislation entitled *Detailed Design Guidelines & Examples*, dated June 2016. It provides general standards and requirements and detailed regulations. It also provides photographic examples of acceptable and unacceptable installations. This document is forthcoming.

**ANALYSIS:**

The proposed new Chapter 719, "Wireless Communications Facilities," of Title VII, "General Regulations," of the Cincinnati Municipal Code and accompanying document *Detailed Design Guidelines & Examples*, will provide clear review requirements for applications to site wireless communications facilities in the right of way and will uniformly apply payment of fees and charges to all applicants. It will provide procedures and guidelines for the location, placement, and construction of wireless communications facilities in the city's right of way. The goal of the legislation and design guidelines is to ensure that wireless communications facilities will be safe and will blend into their environment to the greatest extent possible. The proposed new legislation and design guidelines will help to preserve the character of Cincinnati's neighborhoods, Neighborhood Business Districts, and historic districts while still allowing providers of wireless communications services to serve customers in Cincinnati quickly, effectively, and efficiently.

**CONSISTENCY WITH PLANS:**

The proposed new Chapter 719, "Wireless Communications Facilities," of Title VII, "General Regulations," of the Cincinnati Municipal Code and the accompanying document *Detailed Design Guidelines & Examples*, are consistent with Plan Cincinnati (2012), specifically the Connect Initiative Area, in which there are Action Steps to "Preserve and maintain the transportation network and associated public rights-of-way," (page 136) and "Provide for the safety of the infrastructure for the public," (page 137). Enacting legislation that creates a new system of rules to govern wireless communications facilities will help preserve and maintain the right of way and will provide for the safety and general welfare of the public.

**RECOMMENDATION:**

The staff of the Department of City Planning recommends that the City Planning Commission take the following action:

**APPROVE** new Chapter 719, "Wireless Communications Facilities," of Title VII, "General Regulations," of the Cincinnati Municipal Code; and,

**APPROVE** the accompanying document *Detailed Design Guidelines & Examples* as prepared by the Department of Transportation and Engineering, dated June, 2016.

Respectfully Submitted,



Katherine Keough-Jurs, AICP  
Supervising City Planner  
Department of City Planning

APPROVED:



Charles C. Graves III  
Director  
Department of City Planning

Cincinnati Small Cell Design Guidelines  
 Location/Design/Review Matrix

	Standard Wood Pole Configuration	Standard Metal Pole Configuration	Ground-Mounted Equipment
Downtown Development District	RESTRICTED	MINOR REVIEW	RESTRICTED
Riverfront Residential / Recreation Districts	RESTRICTED	MINOR REVIEW	RESTRICTED
Historic Overlay Districts (including area adjacent to historic landmarks)	RESTRICTED	STANDARD REVIEW	RESTRICTED
Park and Recreation Districts (primarily designed as more urban and active)	RESTRICTED	MINOR REVIEW	RESTRICTED
All Underground Utility Districts	RESTRICTED	MINOR REVIEW	STANDARD REVIEW
Planned Development Districts	STANDARD REVIEW	STANDARD REVIEW	STANDARD REVIEW
Interim Development Control Overlay Districts	STANDARD REVIEW	STANDARD REVIEW	STANDARD REVIEW
Urban Design Overlay Districts	STANDARD REVIEW	STANDARD REVIEW	STANDARD REVIEW
Single-Family Residential Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Residential Mixed and Multi-Family Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Office Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Institutional-Residential Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Commercial Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Urban Mixed Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Manufacturing Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Riverfront Commercial Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Riverfront Manufacturing Districts	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Park and Recreation Districts (primarily designed as more suburban and passive with heavily wooded backdrop)	MINOR REVIEW	MINOR REVIEW	STANDARD REVIEW
Neighborhood Business Districts	STANDARD REVIEW	MINOR REVIEW	STANDARD REVIEW

NOTE: Final version will include references to Form-Based Code transects.

**Exhibit to Staff Report**

*Standard Wooden Pole Configuration*



*Standard Metal Pole Configuration*



**Proposed New Chapter 719:  
“Wireless Communications Facilities” and  
Detailed Design Guidelines & Examples**

**City Planning Commission**

**June 17, 2016**

# Background

- **Data needs are increasing**
- **Customer demands are high**
- **Companies are applying for permits for Wireless Communication Facilities, many in the public right-of-way**
  - **May be attached to existing pole, or may be new pole, equipment box, cabinet, or meter**

# Examples of Wireless Communications Facilities – Existing Pole, West End



# Examples of Wireless Communications Facilities – Existing Pole, East Price Hill



# Examples of Wireless Communications Facilities – New Facility, CBD



# Examples of Wireless Communications Facilities – New Facility, CBD



# Background

- **Federal law authorizes the FCC to establish rules related to installing or siting wireless communications facilities**
- **Rules limit local governments' ability to deny access to the right-of-way**
- **Rules do not preclude the City from:**
  - **Establishing clear rules for the siting of wireless communications facilities in the right-of-way**
  - **Protecting the City's interests in preserving the right-of-way aesthetically and as a pedestrian-friendly thoroughfare**

# Proposed New Legislation and Guidelines

- Law and DOTE have developed new Chapter 719, “Wireless Communications Facilities,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code and an accompanying document *Detailed Design Guidelines & Examples*.

# Background

- **On May 20, 2016, City Planning Commission discussed new regulations and design guidelines for Wireless Communications Facilities**
- **After hearing testimony from industry representatives, CPC voted to table the item for one month to allow for further engagement**
- **CPC determined its primary responsibility to be the design guidelines, but expressed concern about the application process as well**

# Original Public Input

- **Staff Conference 5/5/16**
- **All Community Councils notified**
- **All communication companies that have either filed a permit for wireless communication facilities in the recent past or have contacted City Staff about a potential future permit notified**
- **Twelve people in attendance**
- **Four sets of written comments**
- **Three drafts of the ordinance shared**

# Additional Engagement

- **Three collaborative working meetings**
  - **May 31 (discussion of guidelines and infrastructure)**
  - **June 7 (Innovation Lab)**
  - **June 8 (Innovation Lab)**
- **City Staff gained greater insight into industry challenges**
- **Industry representatives learned more about goals of the regulations**

# Goals of the New Chapter 719 and Design Guidelines

**Creates rules and regulations governing the placement of wireless communications facilities in the right-of-way in a manner that:**

- **Complies with the FCC requirements**
- **Treats applicants equally**
- **Communicates the standards for the City's decisions regarding applications**
- **Ensures that wireless carriers can provide coverage to customers in the City of Cincinnati, while still ensuring that such facilities are as unobtrusive as possible**

**City of Cincinnati**  
**Department of Transportation and**  
**Engineering**

# Proposed Application Process

# Pre-Application

- **Pre-Application Conference (*recommended but not required*)**
  - **Informal meeting with DOTE**
  - **Discuss proposed location and design**
  - **DOTE will advise on specific design guidelines, course of action, relay any concerns**

# Application Requirements

## Elements of a Complete Application Include:

1. Radio Frequency Studies
2. FCC Licenses and, if applicable, State certifications.
3. Design Plans
4. Equipment Specifications
5. Photo Simulations
6. Justification Studies
7. Eligible Facility Requirements
8. Attachment Agreements
9. FAA Notice
10. Historic District Review (if necessary)
11. Fees

# Proposed Application Process

**In accordance with FCC regulations, every application will be classified as one of the following three types:**

- **Type I**
- **Type II**
- **Type III**

# Proposed Application Process

**Type I : Modification to an eligible facility that does not substantially change the physical dimensions**

**Type II: Modification to an eligible facility and the modification substantially changes the physical dimensions of the eligible facility**

**Type III: Mount or install new antennae and transmission equipment to a non-tower supporting structure in the ROW that does not already support transmission equipment; or a request to construct a new tower in the ROW**

# Application Process - Public Notice

## **Type II and Type III Applications:**

- **Notice to all property owners located within 200 feet of the site of the proposed new facility**
- **Notice to Community Council(s)**
- **Within 10 days of filing an application, the applicant shall provide DOTE with a copy and proof of required public notice**

## **Type I Applications:**

- **No public notice given**

# Application Process - Determination

**If the application does conform to Ch. 719 and the CMC:**

- **DOTE provides a written decision**

**If the application does not conform to Ch. 719 and the CMC:**

- **DOTE provides a written decision**
- **DOTE will provide the reason(s) for the denial in a written record**

# Appeal and Exemption Processes

- An administrative appeal process has been added to Section 719 -9, which allows the applicant to appeal denial of a permit to the Director of DOTE.
- In addition, the applicant may seek a limited exemption from the ordinance and Design Guidelines if strict compliance with Chapter 719 would effectively prohibit provision of personal wireless services.

# Proposed Design Guidelines

# Design Guideline Goals

- **Minimize physical and visual impacts on the community while providing options and flexibility to facility providers.**
- **Provide reliable and unambiguous guidance for facility providers and City staff to facilitate timely issuance of permits.**
- **Provide consistent guidance for all facility providers to maintain a “level playing field”**

# Design Guideline Principles

- **Match the appropriate facility solution to its context (pole types assigned by zoning districts)**
- **Consolidate and co-locate multiple providers where feasible and possible.**
- **Maintain pedestrian access around facilities (minimum clearances).**
- **Minimize impacts to adjacent uses and properties.**

# Primary Elements of Design Guidelines

- **Overall Structure Height**
- **Pole Diameter**
- **Equipment Mounting**
- **Equipment Dimensions**
- **Antennae Mounting**

# Primary Elements of Design Guidelines

Design Factor	Standard Specifications (for a single facility)		Expanded Capacity Specifications (for co-located facilities)	
Overall Structure/ Height:	<b>District specific (25ft-36ft) Above Ground Level</b>		<b>District specific (25ft-36ft) Above Ground Level</b>	
Pole Diameter:	<b>Wood (12"-14")</b>	<b>Metal tapered 10"-12" base</b>	<b>Wood (12"-14")</b>	<b>Metal tapered 10"- 12" base</b>
Equipment Mounting:	<b>Pole mounted cage</b>	<b>District specific review option</b>	<b>Pole mounted cage</b>	<b>District specific review option</b>
Equipment Dimensions:	<b>20" x 20" x 90" cage</b>		<b>(20" x 20" x 90" cage) x2</b>	
Antennae Mounting:	<b>Top mount preference Reviewable side mount</b>		<b>Top mount preference Reviewable side mount</b>	

# Types of Review

- **Standard Review**
- **Minor Review**
- **Exceptions to Design Guidelines may be granted for issues of technical or locational infeasibility or a proposed unique design (such as integration into street furniture)**

# Pole and Equipment Types

- **Standard Wood Pole Configuration**
- **Standard Metal Pole Configuration**
- **Ground Mounted Equipment**

# Standard Wood Pole Configuration



# Standard Metal Pole Configuration



# Pole and Equipment Types

Location	Standard Wood Pole Configuration	Standard Metal Pole Configuration
Downtown Development District	RESTRICTED	MINOR REVIEW
Riverfront Residential / Recreation Districts;	RESTRICTED	MINOR REVIEW
Historic Overlay Districts (including area adjacent to historic landmarks)	RESTRICTED	STANDARD REVIEW
Park and Recreation Districts (primarily designed as more urban and active)	RESTRICTED	MINOR REVIEW
All Underground Utility Districts	RESTRICTED	MINOR REVIEW
Planned Development Districts	STANDARD REVIEW	STANDARD REVIEW
Interim Development Control Overlay Districts	STANDARD REVIEW	STANDARD REVIEW
Urban Design Overlay Districts	STANDARD REVIEW	STANDARD REVIEW
Single-Family Residential Districts (including all T3 transects and T4N.SF Transect)	MINOR REVIEW	MINOR REVIEW
Residential Mixed and Multi-Family Districts (including all T4 transects except T4N.SF and T4N.MF-O)	MINOR REVIEW	MINOR REVIEW
Office Districts (including T4N.MF-O)	MINOR REVIEW	MINOR REVIEW
Institutional-Residential Districts	MINOR REVIEW	MINOR REVIEW
Commercial Districts (including all T5 transects)	MINOR REVIEW	MINOR REVIEW
Urban Mixed Districts	MINOR REVIEW	MINOR REVIEW
Manufacturing Districts	MINOR REVIEW	MINOR REVIEW
Riverfront Commercial Districts	MINOR REVIEW	MINOR REVIEW
Riverfront Manufacturing Districts	MINOR REVIEW	MINOR REVIEW
Park and Recreation Districts (primarily designed as more suburban and passive with heavily wooded backdrop)	MINOR REVIEW	MINOR REVIEW
Neighborhood Business Districts	STANDARD REVIEW	MINOR REVIEW

# **City of Cincinnati**

## **Department City Planning**

## **New Chapter 719 and *Detailed Design Guidelines & Examples* will:**

- **Provide clear review requirements for applications**
- **Provide procedures and guidelines for the location, placement, and construction of wireless communications facilities in the city's right-of-way**
- **Ensure that wireless communications facilities will be safe and will blend into their environment to the greatest extent possible**

# Consistency with Plans

- **Plan Cincinnati (2012)**
- **Connect Initiative Area: “Preserve and maintain the transportation network and associated public rights-of-way,” (page 136) and “Provide for the safety of the infrastructure for the public,” (page 137)**
- **New legislation and guidelines will help preserve and maintain the right-of-way and will provide for the safety and general welfare of the public**

# Recommendation

**The staff of the Department of City Planning recommends that the City Planning Commission take the following actions:**

**APPROVE new Chapter 719, “Wireless Communications Facilities,” of Title VII, “General Regulations,” of the Cincinnati Municipal Code; and,**

**APPROVE the accompanying document *Detailed Design Guidelines & Examples* as prepared by the Department of Transportation and Engineering**