

**CITY OF KETTERING**

REGULATIONS FOR

PLACEMENT OF

COMMUNICATION FACILITIES

IN THE RIGHT OF WAY

EFFECTIVE January 7, 2022

Approval

  
P.E.  
City Engineer

## BACKGROUND AND PURPOSE

### **Section 1.01** *Purpose.*

- (a) In addition to the requirements of Chapter 901, these Regulations For Placement Of Communication Facilities (“Facilities”) In The Right of Way (“Placement Rules”) provide requirements and specifications that Facilities must meet prior to installation in the City of Kettering Right of Way.
- (b) The objective of the Placement Rules is to strike a balance between preserving the character of the City of Kettering through careful design, siting, landscaping, and camouflaging techniques to blend Facilities into their environment, while enhancing the ability of service providers to deploy Facilities in the City quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust service availability.
- (c) The Placement Rules are intended to allow sufficient flexibility to respond to and integrate future advances in technology as well as innovations that improve the ability for these facilities to integrate into the surrounding environment. Due to the rapid advances in technology, the Placement Rules will be evaluated, and amended, periodically to ensure that the provisions respond and adapt accordingly to these evolving technologies.

**Section 1.02** *Definitions.* Unless otherwise defined herein, capitalized terms used in these Design Guidelines will have the same meaning attributed to them in Kettering Codified Ordinances Chapter 901.

**Section 1.03** *Applicability.* Placement, modification, and removal of any Facility shall comply with these Placement Rules. For requirements related to Small Cell Facilities and Wireless Support Structures, reference Codified Ordinance Section 901.111 and Design Guidelines For Small Cell Facilities & Wireless Support Structures.

## **Article II. RIGHT OF WAY CONSTRUCTION PERMIT APPLICATIONS**

### **Section 2.01** *Pre-Application conference.*

- (a) The City encourages voluntary pre-submittal conferences to meet with potential Applicants and discuss projects on a conceptual level. The conference is intended to provide an overview of the application content requirements for any given project, and also to create an informal forum in which Applicants and the City can discuss

any concerns that should be addressed as soon as possible to avoid any unnecessary delays in the processing of an application and deployment of Facilities in the City. A pre-submittal conference is not required to submit an application.

- (b) An appointment is required for all pre-submittal conferences. City staff may establish regular hours in which appointments are available. City staff will endeavor to provide Applicants with an appointment within approximately ten (10) business days after receipt of a written or email request.

**Section 2.02**            *Applications*

- (a) Prior to submitting an application for a Right of Way Construction Permit, the Applicant must possess a valid Certificate of Registration, as required by the Codified Ordinances Chapter 901.
- (b) Prior to construction, installation, modification, co-location, relocation, replacement, or removal of a Facility in the Right of Way, the Person/Operator shall first apply to the City and receive a Right of Way Construction Permit from the City. A Right of Way Construction Permit is required for each service area within the City. The applicant will propose an area for construction, which will be reviewed by the City.
- (c) During construction, any damage to hard surfaces requires a Right of Way Construction Permit for each individual location prior to repair. The application can be accessed through *Access Kettering*.
- (d) An Electrical Permit from the Planning & Development Department may also be required. This is a separate application and process.

**Section 2.03**            *Application Requirements for Right of Way Construction Permit*

- (a) Applications for Right of Way Construction Permits shall be made using the City of Kettering’s permitting portal, *Access Kettering*.
- (b) General Requirements. The following items must be included in order for the Construction Permit Application for Utilities to be considered complete.
  - (i) Applicant must provide contact information, including the name of company seeking the Permit and the name of the project manager and other support staff along with their mailing address, email address, and phone number. Applicant is responsible for providing updated contact information to the City when the contact information changes from that which was included in the Application. For the purposes of submitting an Application under this section, “Applicant” also includes any Person that, at the time of filing the Application, provides the City the Person’s

written authorization to perform the specific work for which an Application has been submitted.

(ii) Construction drawings. Construction drawings must include:

- (1) Cover Sheet with project name, scope, vicinity map, contacts, project notes, date;
- (2) Drawings, to a readable and common engineering scale, showing area of construction, with adjacent areas to show perspective of work;
- (3) Detailed notes and drawings showing components and photographs.
- (4) Right-of-way, recorded easements, and property lines;
- (5) Existing utilities;
- (6) Landscape plan (if applicable);
- (7) Other information as required by the City of Kettering;

(c) When work is located adjacent to private property, the Applicant shall provide clear, written communication to the occupant(s) and the City of Kettering Engineering Department at least forty-eight hours prior to start of work. The document shall include the name of the utility (including phone and email) and contractor, the purpose and scope of the work, and the anticipated timeframe. The Applicant shall provide a copy of this document to the City of Kettering Engineering Department. The utility shall respond to all communications in a time that does not exceed twenty-four hours, and sooner if needed.

(d) During installation, the Permittee shall create as-built drawings accurately delineating location horizontally, as well as vertically (depth). Copies of as-built drawings, in GIS format, shall be provided to the City of Kettering in a pre-approved format as one condition for the release of bond.

### **Article III. SITING/LOCATIONS/PLACEMENT**

**Section 3.01** Generally, all Facilities shall be constructed and maintained in a manner that does not (1) obstruct, impede, or hinder the usual travel or public safety on a Right of Way; (2) obstruct the legal use of a Right of Way by other utility providers; (3) violate nondiscriminatory applicable codes; (4) violate or conflict with the City's Right of Way ordinance or these Design Guidelines; and (5) violate the federal Americans with Disabilities Act.

**Section 3.02**            *Historic or Architecturally Significant Structures.*

- (a) Above ground Facilities approved by the City after the enactment of these Regulations may not be placed directly in front of any historic or architecturally significant structures in prominent or highly visible locations.
- (b) Enclosures shall encapsulate all equipment within the enclosure except as otherwise permitted by the City Engineer.
- (c) Enclosures shall not be located within or above pavement (roadway, driveway, sidewalk, or shared use path).
- (d) Enclosures shall be installed outside of potential right-of-way improvements (e.g. ADA curb ramp, roadway widening, sidewalk or shared use path).

**Section 3.03**            *Overhead installations.*

- (a) Installation of overhead lines is acceptable only on existing infrastructure, with exceptions where special circumstances require underground or other means. Right-of-way or a recorded easement for such use is required.
- (b) Any supporting ground infrastructure (pole, guy wire, cabinet, etc) shall be placed no closer than: (i) five (5) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water); (ii) one horizontal foot from irrigation equipment owned by the City of Kettering. Additional offset distance may be required depending on site conditions.

**Section 3.04**            *Underground installations.*

- (a) Installation of Facilities underground is preferred to installation overhead. Right-of-way or a recorded easement for such use is required.
- (b) Underground Facilities shall be placed no closer than: (i) five (5) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water), except to cross at nearly 90 degree angles; (ii) one horizontal foot from irrigation equipment owned by the City of Kettering. Additional offset distance may be required depending on site conditions.
- (c) Underground Facilities shall be equipped with a tracing system to allow underground detection.
- (d) The Provider/Permittee shall remain an active member of the Ohio811 (Ohio Call Before You Dig services), and provide location information as required by Ohio law.

**Section 3.05**      *Pole-Mounted Cabinets.*

- (a) A Pole-Mounted Cabinet is defined as a protective enclosure to house communication junctions or some related function, and is attached to a pole. A Pole-Mounted Cabinet shall not exceed eight (8) cubic feet. The size and shape of a Pole-Mounted Cabinet shall be designed for the least possible visual impact.
- (b) The number of Pole-Mounted Cabinet placements shall remain at a minimum to avoid the undesirability of excessive above ground utility infrastructure.
- (c) Placement of Pole-Mounted Cabinet along thoroughfares is preferred. Installation on local or residential streets should be avoided unless absolutely necessary.
- (d) Placement of Pole-Mounted Cabinet shall be at property lines (of differing owners).
- (e) Placement of Pole-Mounted Cabinets shall be outside of intersection and driveway sight triangles.
- (f) Pole-mounted Cabinets shall be no closer than three (3) feet from back of curb, roadway, driveway, sidewalk or shared use path.
- (h) Pole-Mounted Cabinets shall be placed no closer than five (5) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water), and no closer than one horizontal foot from irrigation equipment owned by the City of Kettering. Additional offset may be required depending on site conditions.
- (i) The bottom of a Pole Cabinet must be between two (2) feet and three (3) feet or more than seven (7) feet off the ground and may not extend more than six (6) inches from the face of the pole.
- (j) Pole Cabinets shall be installed plumb.
- (k) Placement of Pole-Mounted Cabinets in recorded easement locations may be required.
- (l) Material: Sturdy construction, typically metal.
- (m) Equipment attached to metal poles must be installed using stainless steel banding straps. When the straps are attached to a metal pole, they must match the color of the pole.
- (n) Color: The material color shall be inconspicuous to the site. The surface shall be maintained in good condition and free of graffiti. The Applicant shall submit a color sample no smaller than six inches square for review and approval prior to installation.

**Section 3.06**      *Large Cabinets.*

- (a) A Large Cabinet is defined as a protective enclosure to house communication junctions or some related function that is taller than four (4) feet, with a volume exceeding fifteen (15) cubic feet. The size and shape of a Large Cabinets shall be designed for the least possible visual impact.
- (b) The number of Large Cabinet placements shall remain at a minimum to avoid the undesirability of excessive above ground utility infrastructure.
- (c) Placement of Large Cabinets along thoroughfares is preferred. Installation on local or residential streets should be avoided unless absolutely necessary.
- (d) Placement of Large Cabinets shall be at property lines (of differing owners).
- (e) Placement of Large Cabinets shall be outside of intersection and driveway sight triangles.
- (f) Large Cabinets shall be no closer than eight (8) feet from the back of curb or roadway.
- (g) Large Cabinets shall be no closer than three (3) feet from any sidewalk or shared use path.
- (h) Offsets from curb, roadway, sidewalk or shared use path may be reduced at the City Engineer's discretion to conglomerate proposed Large Cabinets with existing cabinet(s) of the same entity.
- (i) Large Cabinets shall be placed no closer than ten (10) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water), and no closer than one (1) horizontal foot from irrigation equipment owned by the City of Kettering. Additional offset may be required depending on site conditions.
- (j) Cabinets shall be installed plumb.
- (k) Placement of Large Cabinets in recorded easement locations may be required.
- (l) Appurtenance outside the Cabinet shall be kept to a minimum.
- (m) Material: Sturdy construction, typically metal.
- (n) Color: The material color shall be inconspicuous to the site. The surface shall be maintained in good condition and free of graffiti. The Applicant shall submit a color sample no smaller than six inches square for review and approval prior to installation.

**Section 3.07**      *Small Cabinets*

- (a) A Small Cabinet is defined as a protective enclosure to house communication junctions or some related function and is ground-mounted. A Small Cabinet is typically taller than two (2) feet, with a volume exceeding 2.5 cubic feet, but less than fifteen (15) cubic feet. The size and shape of a Small Cabinet shall be designed for the least possible visual impact.
- (b) The number of Small Cabinet placements shall remain at a minimum to avoid the undesirability of excessive above ground utility infrastructure.
- (c) Placement of Small Cabinets along thoroughfares is preferred. Installation on local or residential streets should be avoided unless absolutely necessary.
- (d) Placement of Small Cabinets shall be at property lines (of differing owners), unless otherwise permitted.
- (e) Placement of Small Cabinets shall be outside of intersection and driveway sight triangles.
- (f) Small Cabinets shall be no closer than three (3) feet from back of curb, roadway, driveway, sidewalk or shared use path.
- (g) Offsets from curb/roadway or sidewalk/shared use path may be reduced at the City Engineer's discretion to conglomerate proposed Small Cabinets with existing cabinet(s) of same entity.
- (h) Small Cabinets shall be placed no closer than five (5) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water), and no closer than one (1) horizontal foot for irrigation equipment owned by the City of Kettering. Additional offset may be required depending on site conditions.
- (i) Cabinets shall be installed plumb.
- (j) Placement of Small Cabinets in recorded easement locations may be required.
- (k) Material: Sturdy construction, typically metal.
- (l) Color: The material color shall be inconspicuous to the site. The surface shall be maintained in good condition and free of graffiti. The Applicant shall submit a color sample no smaller than six inches square for review and approval prior to installation.



**Section 3.08**      *Pedestals*

- (a) A Pedestal is defined as a protective enclosure to house smaller scale communication junctions or some related function that is no higher than 2.5 feet, with a volume less than 2.5 cubic feet. The Pedestal size and shape shall be designed for the least possible visual impact.
- (b) The number of Pedestal placements shall remain at a minimum to avoid the undesirability of excessive above ground utility infrastructure.
- (c) Placement shall be at property lines (of differing owners).
- (d) Placement shall be no closer than two (2) feet from back of curb, roadway, driveway, sidewalk or shared use path. Not permitted within pavement (roadway, driveway, sidewalk or shared use path).
- (e) Pedestals shall be installed plumb.
- (f) Pedestals shall be placed no closer than three horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water). No closer than one horizontal foot for irrigation. Additional offset may be required depending on site conditions.
- (g) Material: Sturdy construction, preferably a composite material.
- (h) Color: The material color shall be inconspicuous to the site. The surface shall be maintained in good condition and free of graffiti. The Applicant shall submit a color sample no smaller than six inches square for review and approval prior to installation.

**Section 3.09**      *Large Pull Boxes*

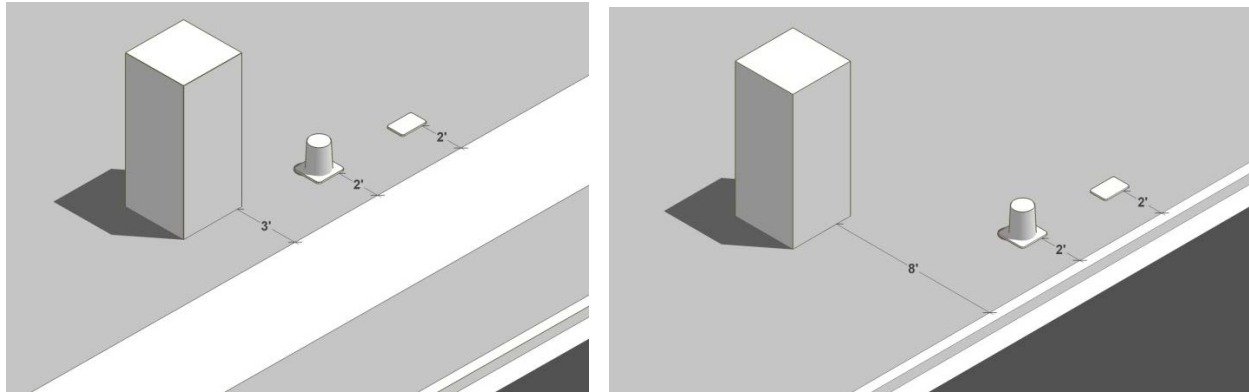
- (a) A Large Pull Box is defined as a protective enclosure to house communication junctions or related function and is flush to the ground, with underground space. A Large Pull Box is typically larger than two (2) square feet, but less than six square feet. The pull box size and shape shall be designed for the least possible visual impact.
- (b) Placement of Large Pull boxes at property lines (of differing owners) is preferred.
- (c) Large Pull Boxes may not be installed closer than two (2) feet from back of curb, roadway, driveway, sidewalk or shared use path. Large Pull Box installation is not permitted within pavement (roadway, driveway, sidewalk or shared use path).

- (d) Pull Boxes shall be placed no closer than five (5) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water), and no closer than one horizontal foot from irrigation equipment owned by the City of Kettering. Additional offset may be required depending on site conditions.
- (e) Material: Sturdy construction with a non-slip surface, preferably a composite material. Large Pull boxes must support HS-25 loading.
- (g) Color: The material color shall be inconspicuous to the site. The surface shall be maintained in good condition and free of graffiti. The Applicant shall submit a color sample no smaller than six inches square for review and approval prior to installation.

**Section 3.10**            *Small Pull Boxes*

- (a) A Small Pull Box is defined as a protective enclosure to house very small communication junctions or related function and is flush to the ground, with underground space. A Small Pull Box will not typically exceed two square feet. The pull box size and shape shall be designed for the least possible visual impact.
- (b) Placement of Large Pull boxes at property lines (of differing owners) is preferred.
- (c) Small Pull Boxes may not be installed closer than two (2) feet from back of curb, roadway, driveway, sidewalk or shared use path. Small Pull Box installation is not permitted within pavement (roadway, sidewalk, shared use path, or driveway).
- (d) Pull Boxes shall be placed no closer than five (5) horizontal feet from underground infrastructure owned by the City of Kettering (storm sewer, fiber, electric) or Montgomery County Environmental Services (sanitary sewer, water), and no closer than one (1) horizontal foot from irrigation equipment owned by the City of Kettering. Additional offset may be required depending on site conditions.
- (e) Material: Sturdy construction with a non-slip surface, preferably a composite material. Small Pull boxes must support HS-20 loading.
- (f) Color: The material color shall be inconspicuous to the site. The surface shall be maintained in good condition and free of graffiti. The Applicant shall submit a color sample no smaller than six inches square for review and approval prior to installation.

### Section 3.11 *Required Offsets Illustration*



#### **Required Offsets from Curb/Roadway, Sidewalk, Shared Use Path, or Driveway**

*Large Cabinet (8' from road, 3' from sidewalk/shared use path), Small Cabinet (3'), Pedestal (2'), Pull Box (2')*

### Section 3.12 *Vegetative Screening*

- (a) Vegetative screening shall be required for large cabinets and may be required for other enclosures.
- (b) The Applicant must submit a vegetative screening proposal with the Construction Permit Application, which will be reviewed in consultation with the Planning & Development Department. Adjacent property owners may also be consulted.
- (c) Installation and maintenance of the vegetative screening is initially the responsibility of the Permittee with responsibility being automatically transferred to the Provider if/when the Permittee is no longer involved in such responsibility or is not responsive.
- (d) When existing communications infrastructure is present, the vegetative screening shall be incorporated for that equipment, as well.
- (e) Plants used for screening must be evergreen. The planting quantity and size should be such that 100% screening is achieved within two (2) years of installation. Tree “topping” or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs, or other vegetative screening already existing in the Right of Way must be noted in the proposal and must be approved by the City Engineer. When underground enclosures are proposed, they shall be located to minimize disruption to the placement of street trees. Adequate planting depth shall be provided between the top of the enclosure and the finished grade to allow plants to grow in a healthy condition.

- (f) Vegetative screening shall be no closer than three (3) feet from back of curb, roadway or sidewalk/shared use path.
- (g) The illustrations below indicate form and scale. The intent is to remove conspicuity from the cabinet with native, low-maintenance, long-lasting landscaping.



**Required Landscaping (Illustrative of Form and Scale)**

**Section 3.13**      *Damage*

- (a) For any damage that causes, or has the potential to cause, a hazardous condition, the Applicant/Owner shall immediately make the site safe, contact the appropriate emergency agencies and utility owner, and notify by telephone City of Kettering Engineering Department staff.
- (b) Damage to any public or private Facility shall be reported to the City of Kettering Engineering Department immediately via email to: [KetteringEngineering@ketteringoh.org](mailto:KetteringEngineering@ketteringoh.org).

The email shall describe in detail the damage (who, where, when, what, how). In addition, the Applicant shall maintain a current list of damage and share that weekly with the Engineering Department until the project is complete (and damages fixed). A Permit is required for any cut into pavement on roadway, curb, sidewalk, driveway, or shared use path.

**Section 3.14**      *Signage/Lights/Logos/Decals/Cooling Fans*

- (a) *Signage.* Permittee/Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet, pedestal or pull box that is visible to the public. Signage required under this section shall not exceed 4" x

6", unless otherwise required by Law (e.g. RF ground notification signs) or the City. If no cabinet exists, the signage shall be placed at the base of the pole.

(b) *Lights*. Above ground Facilities shall not be illuminated, except in accordance with state or federal regulations, or unless illumination is integral to the camouflaging strategy such as design intended to look like a street light pole.

(c) *Logos/Decals*. Permittees/Providers shall remove or paint over unnecessary equipment manufacturer decals. Facilities shall not include advertisements and may only display information required by a federal, state, or local agency.

(d) *Cooling Fans*. In residential areas, a passive cooling system shall be used. In the event that a fan is needed, a cooling fan with a low noise profile shall be used.

**Section 3.15**            *Encroachments Prohibited.*

Facilities shall not encroach at grade or within the airspace beyond the Right of Way or over the travelway. Infrastructure shall be located either within the Right of Way or on private property within a recorded easement.

**Article IV.    GENERAL**

**Section 4.01**            *Compliance with all Applicable Laws.*

Permittees/Providers shall at all times maintain compliance with all applicable federal, state and local Laws, regulations, ordinances, or other rules.

**Section 4.02**            *Right to Inspect.*

The City or its designee may inspect any facilities within the Right of Way. The Permittee/Provider shall cooperate with all inspections. The City reserves the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.

**Section 4.03**            *Maintenance.*

The site and the Facility, including but not limited to all landscaping, fencing, and related equipment, must be free from graffiti, dirt, debris, rust, corrosion, peeling paint, broken parts and maintained in accordance with all approved plans and conditions of approval.

**Section 4.04**            *General Construction.*

All work and designs shall comply with the following general standards for construction in the City's Right of Way:

- (a) City of Kettering Codified Ordinances;
- (b) City of Kettering Standard Construction Drawings;
- (c) City of Kettering Construction and Material Specifications;
- (d) Ohio Department of Transportation (ODOT) Location and Design Manual;
- (e) ODOT Standard Drawings;
- (f) ODOT Construction and Material Specifications;
- (g) Ohio Manual of Traffic Control Devices;
- (h) American Association of State Highway Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets;
- (i) AASHTO Roadside Design Guide;
- (j) AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities;
- (k) AASHTO Guide for Development of Bicycle Facilities;
- (l) United States Access Board (USAB) Proposed Guidelines for Pedestrians in the Public Right of Way;
- (m) USAB American with Disabilities Act Accessibility Guidelines;
- (n) National Fire Protection Association 70 National Electric Code; and
- (o) all other applicable local, state, and federal codes and regulations.

**Section 4.05**            *Conflict with other Provisions.*

In the event that any other applicable Law or code requires any more restrictive requirements, the most restrictive requirement shall control.

**Section 4.06**            *Severability.*

The provisions of these Regulations 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 application of such 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 herein.

**Section 4.07**            *Installation and Inspection.*

- (a) *Completion within 90 days.* The construction of any Facility for which a Permit is granted shall be completed within ninety (90) days after issuance of the Permit unless the City and the Permittee agree to extend this period. The City will agree to an extension if the delay is caused by: (a) make-ready work for a City-owned facility; or (b) the lack of commercial power or backhaul availability at the site, provided that the Permittee/Provider made a timely request within sixty (60) days after the issuance of the Permit for commercial power or backhaul services. The additional time to complete installation may not exceed three hundred and sixty (360) days after the issuance of the Permit.
- (b) *Procedure for request for extension of time.* In situations when completion will not occur within ninety (90) days after issuance of the Permit, the Permittee may request an extension of time for the reasons noted above in writing to the Engineering Department, and shall include the length of time being requested and the reason for the delay.

**Section 4.08**            *Existing infrastructure restoration requirements*

As required by the City's Codified Ordinances Chapter 901, the Permittee and/or its subcontractors shall leave the streets, alleys, and other public places where work is done in as good condition or repair as they were before such work was commenced and to the reasonable satisfaction of the City.

**Section 4.09**            *Interference with Operations.*

- (a) *No Liability.* The City shall not be liable to the Permittee/Provider by reason of inconvenience, annoyance, or injury to the Facilities and related equipment or activities conducted by the Permittee/Provider therefrom, arising from the necessity of repairing any portion of the Right of Way, or from the making of any necessary alteration or improvements, in or to, any portion of the Right of Way, or in or to the City's fixtures, appurtenances, or equipment.
- (b) *Signal Interference with City's Communications Infrastructure Prohibited.* In the event that an Permittee/Provider's Facility interferes with the public safety radio system, or the City's or State's traffic signal system or fiber optic communication system, then the Permittee/Provider's shall, at its cost, immediately cooperate with the City

to either rule out Permittee/Provider 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.

**Section 4.10**      *Removal or Relocation Required for City Project.*

- (a) Permittee/Provider shall remove and relocate the permitted Facility at the Permittee/Provider's sole expense to accommodate construction of a public improvement project by the City or State.
- (b) If Permittee/Provider fails to remove or relocate the Facility or portion thereof as requested by the City within one hundred and twenty (120) days of the City's notice, then the City shall be entitled to remove the Facility or portion thereof at Permittee/Provider's sole cost and expense, without further notice to Permittee/Provider.
- (c) Permittee/Provider shall, within thirty (30) days following issuance of invoice for the removal or relocation of a Facility, or any portion thereof, reimburse the City for its reasonable expenses incurred in the removal or relocation (including, without limitation, overhead and storage expenses).

**Section 4.11**      *Removal Required by City for Safety and Imminent Danger Reasons.*

- (a) Permittee/Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Facility within the time frame and in the manner required by the City if the City reasonably determines that the disconnection, removal, or relocation of any part of a Facility: (1) is necessary to protect the public health, safety, welfare, or City property; or (2) Permittee/Provider fails to obtain all applicable licenses, permits, and certifications required by Law for its Facility.
- (b) If the City Engineer reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Facility at the Permittee/Provider's sole cost and expense.

**Section 4.12**      *Removal/Abandonment of Facilities.*

Permittee/Provider shall remove its Facilities when such facilities are Abandoned regardless of whether or not it receives notice from the City. For purposes of this Section, "Abandoned" means any Facilities that are unused for a period of three hundred and sixty-five (365) days without the Permittee/Provider otherwise notifying the City and receiving the City's approval. Unless the City sends notice that removal must be completed



immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of sixty (60) days of the Facility being abandoned, or within sixty (60) days of receipt of written notice from the City. When Permittee/Provider abandons permanent enclosures in the Right of Way, the Permittee/Provider shall notify the City in writing of such abandonment and shall file with the City the location and description of each Facility abandoned. Prior to removal, Permittee/Provider must make Application to the City and receive approval for such removal. Permittee/Provider must obtain a Right of Way Construction Permit for the removal. The City may require the Permittee/Provider to complete additional remedial measures necessary for public safety and the integrity of the Right of Way.

**Section 4.13**            *Restoration*

Permittee/Provider shall repair any damage to the Right of Way, any facilities located within the Right of Way, and/or the property of any third party resulting from Permittee/Provider's removal or relocation activities (or any other of Operator's activities hereunder) within ten (10) calendar days following the date of such removal or relocation, at Permittee/Provider's sole cost and expense. Restoration of the Right of Way and such property shall follow the Engineering Department's Standard Construction Drawings and Specifications and be no less than the same condition as it was immediately before the date Permittee/Provider was granted a Permit for the applicable location, or did the work at such location (even if Permittee/Provider did not first obtain a Permit). This includes restoration or replacement of any damaged trees, shrubs, or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the City.

**Section 4.14**            *As-Built Maps and Records*

- (a) Permittee/Provider shall maintain accurate maps and other appropriate records, including an inventory, of its Facilities as they are actually constructed in the Right of Way or any other City-owned property. The inventory shall include GIS coordinates, date of installation, type of facility used for installation, the facility owner, and description/type of installation for each facility.
- (b) Upon City's written request, Permittee/Provider shall provide a cumulative inventory within thirty (30) days of City's request. Concerning facilities that become inactive, the inventory shall include the same information as active installations in addition to the date the facility was deactivated and the date facility was removed from the Right of Way. The City may compare the inventory to its records to identify any discrepancies.

**Section 4.15**            *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.

**Section 4.16**            *Tree Maintenance*

Permittee/Provider, its contractors, and agents shall obtain written permission from the City before trimming trees in the Right of Way hanging over its Facilities. When trimming such trees on private property, the Permittee/Provider, its contractors, and agents shall notify the City and obtain written permission from the property owner. When directed by the City, Permittee/Provider shall trim under the supervision and direction of the City. The City shall not be liable for any damages, injuries, or claims arising from Permittee/Provider's actions under this section.

**Section 4.17**            *Minor Technical Exceptions.*

The City 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 Permittee/Provider's control.

**Section 4.18**            *Waivers.*

In the event that any Permittee demonstrates that strict compliance with any provision in these guidelines, as applied to a specific proposed Facility, would prohibit, or effectively prohibit, the provision of service, the City may grant a limited, one-time exemption from strict compliance.